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AMERICA AND THE EUROPEAN WAR

BY

NORMAN ANGELL

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AMERICA AND THE EUROPEAN WAR

By Norman Angell[1]

In one sense this war is an extraordinary tribute to the influence of the university and to the rôle of university teachers. Practically all in England who treat of the war—statesmen, politicians, public men, journalists, authors, preachers—agree with most astonishing unanimity that the philosophy of militarism which is responsible for German aggression has all been the work of half a dozen professors and a few writers and theorists—Nietzsche, Treitschke, and their school. Not only, in the current English view, have a few false ideals and ideas produced the greatest war of history, but they have accomplished a miracle still more startling: they have radically transformed the nature and character of a nation of some seventy million souls—have transformed it, that is, from a beneficent to a maleficent force in Europe.

And the very practical people who give this verdict were until yesterday declaring that ideas, theories, and doctrines are of no account or import in the world, that indeed they are not "facts" at all. "All fine-spun theories, all sentimental aspirations and vague generalities, the whole collection of shibboleths treasured by the idealists and the dreamers are shattered by th first whiff of grape-shot," wrote a popular journalist some years ago. "The idealogues and doctrinaires," he went on, "do not seem capable of realizing the difference between the world of theory and the world of fact—the material world in which we live: that all the argument in the world won't penetrate an inch of armor plate and that syllogism is no answer to a dreadnought." It is this "practical" view always which one would have thought beloved especially of the English people: the importance of "facts"—dreadnoughts, beefsteaks, machine guns, and a balance at the bank as against the "theories"—ideals, desires, aspirations—of the idealogues and the doctrinaires. These things, it was said, could not change human nature or the "hard facts" of

[1]Reprinted from the *Yale Review*, January, 1915. Copyright, 1915, by the Yale Publishing Association, New Haven, Conn.

the world; they could be no concern of men of affairs or those responsible for practical policy—above all, such logomachies of the study should be no concern of statesmen and men of action, since it was their business to deal with "things as they are."

This is a very remarkable result: to have convinced the most "practical" nation in the world that so far from theories, doctrines, professors, and philosophers being of no account, the war in which it is engaged has but one basic and fundamental cause: theories, aspirations, dreams, desires—the false theories of professors, the false ideals of idealogues which have impregnated the whole of another nation and changed its nature. This war is, according to the statement of the case very generally put forward by the Allies and widely accepted in America, the result of a false national doctrine.

Now a doctrine that can accomplish this double miracle—so to transform a great and civilized nation as to make it a danger to mankind and render it necessary for civilized Europe to put some twelve millions of its soldiers into the field in order to fight it, is obviously worth a little study. The American people, who are feeling in many ways the effects of the war, and who are deeply interested in learning whatever lessons may be drawn from it for the future development of civilization, may very well be interested in the nature of the doctrine which is said to have wrought all this havoc. Only by understanding its nature shall we be able to grasp the underlying cause of the war, and hope to find a way out.

What then is this doctrine of "Prussianism" against which we are told the Allies are fighting? It seems to be generally agreed that no material motive affords a sufficient explanation of German aggression. Germany, it is said, desires to make herself the master of Europe and so of the world and to impose her culture thereon as a matter largely of national pride. It is an ideal. Why should she, half a century ago the most intellectual liberal nation in Europe and the least nationalist, have developed such ambition? The older Germany (the Germany that influenced Europe intellectually and morally) had the nationalist spirit very feebly developed; Kant, for instance, with his dissertations on world peace, was an internationalist and a cosmopolitan before the French had given names to those things; Goethe was so little nationalist or patriotic that he tells us that he could not bring himself to care particularly even about Napoleon's overrunning of the German states. No one

but very short-memoried people will allege that it is "in their blood," as distinct from the blood of people like the French. It is pre-eminently the work of an idea.

The cruder manifestations of this Prussian philosophy can be found in such books as Bernhardi's "Germany and the Next War." According to the school which Bernhardi represents, triumph by arms is a thing desirable in itself; as indeed is war, which is "God's test of the nations." The whole philosophy, by the way, as expounded by Germans as distinct from the Polish exponents like Nietzsche and Treitschke, is permeated by intense piety. War, says Bernhardi, is the greatest factor in the furtherance of culture and power; it is not so much a painful necessity as a splendid duty. It has already been for Germany a means to national union and must now be a means of securing for the German spirit and German ideas that fitting recognition "which has hitherto been withheld from them." Such a Nietzschean "will to power," such a desire to dominate others, involves on the part of the nation so animated the belief not merely that its own civilization is the best for itself, but that it is the best for all others, and that if war be needed to impose it, why, that justifies war, which is a great selective process, the weeder-out of the feeble, a school of discipline, a moral tonic; these philosophers declare that its motives are inherent in human nature and that the amiable sentimentalists who would substitute for it peace and arbitration lack the virile human outlook, and are attempting to set at nought a great natural law. War is the struggle for life among nations corresponding to the struggle which goes on in all other spheres of sentient nature. The philosophy need hardly be defined indeed: it existed long before Nietzsche and has been voiced by military exponents in every country that ever gained a military victory. Behind it there lie very definite biological and economic fallacies; but the "will-to-power" philosophy goes a little deeper than the false arguments which buttress it.

When we ask to what end does Germany desire the hegemony of Europe, the answer in effect is this: that she desires this power for itself; that it is inherent in human nature for men to wish to see their nation powerful, the ideals it represents triumphant over other ideals, imposing its influence on the world; that it is the inevitable clash of nationalities, and that in the conflict of spiritual things there takes place the same struggle as for physical life.

Well, of course, there is the same confusion here as once made religious faith in Europe not a matter of truth and feeling in its eternal verities, but a matter of opposing cavalry and artillery and the cleverness of one general at deceiving and outwitting the other in a trade where "all is fair." In the wars of religion the spiritual conflict was replaced by a very material one, a conflict dragged down from the higher plan whereon it might have purified men to a plane whereon it certainly debased them. For hundreds of years, men were sure that they had to fight out their religious ideas by war and it was necessary to protect and promote their religious ideas by that means. The Protestants of the sixteenth and seventeenth centuries were as certain that Catholic power had to be destroyed by arms as Englishmen of the twentieth century that Prussianism must be destroyed by the same means. And, indeed, so long as both based their position upon military force, so long as both believed that their only security was in dominating the other by that force, collision was, of course, inevitable. This conflict, the determination of each group to impose its military domination on the other, was also certainly "inherent in human nature." Yet the day came when one group ceased to attach any very great value to the military domination of another, because it became to be realized that the religious and moral value of such domination was nil, and that the military conflict was irrelevant to religious or moral realities; that the religious possessions of all were rendered more secure by ceasing to fight for them. If we are sufficiently wise, a like transformation will take place in the domain of ideals of nationality. You had men, of course, desiring the military glory, and nothing more, of their particular religious group, not concerned in fact with religious truth or dogma at all, but with the simple desire to have their side win as against the other side. And you have a corresponding defense of war as between nations. You have millions animated by a determination to achieve victory and to give their lives for it, for the simple end of victory. In the Nietzschean and other "will-to-power" philosophies, you will find plenty of this glorification of victory for itself, irrespective of any moral or material aim whatsoever.

It is one of the curiosities of the general attitude toward the less tangible but none the less real things like ideals and aspirations, to regard them as unchangeable and immutable, not in any way the result of contact of mind with mind, born of literature

and the intellectual activities of men, but as something which argument and discussion can in no way affect. Now, I submit that far from argument and discussion not affecting ideals like those which I have indicated, these ideals are the direct outcome of such activity, as I think the whole spectacle of the moral and intellectual transformation of Germany shows, and the still profounder change in Europe as a whole which has come over the relationship of rival religious groups. As the result of an intellectual fermentation that went on through a period of theological discussion, not merely did Catholics and Protestants cease massacring one another; something much more remarkable occurred: they ceased wanting to.

It is quite true that this question, "What does the power to dominate other men, to conquer them, achieve?" will be answered by millions in Europe to the effect that it achieves nothing but itself, and that this is all it is intended to achieve. But the fact of wanting such a thing for itself depends upon our relative estimate of moral values—whether, for instance, we regard sheer physical domination of another as a worthy thing, as a fit aim for the nation that we desire to have respected,—and that depends upon precisely this intellectual fermentation; the discussion and comparison of values to which I have referred.

And this brings us to the conclusion that you cannot deal with the problem of Prussianism, the moral attributes it connotes and the military conflicts which it provokes, without asking the questions, "For what purpose do states exist?" "What are the essential realities of life?" And if you answer those questions honestly and sincerely, you will find that you cannot in any absolute way separate moral from material values. The idealists of war may see in material prosperity, in the feeding and clothing and warming of the world, nothing but the profits and dividends of over-rich manufacturers confronting them, but the object of the real economist is to secure the reality which lies behind—the home, the possibility for health, affection. Bread is not merely dead matter, pulverized seed. Because it is bread it is human energy and life —"the marvelous chemistry by which the loaf is changed into a melody of Liszt" or the laughter of a child. Here as elsewhere militarism parts company with the Christian ethic; it is a little suggestive that the Founder of Christianity put the plea for daily bread in the forefront of that invocation which has become the prayer of Christendom. And that is why war, like any problem

dealing with the phenomena of human society, must in part be an economic problem.

To the question, "What sort of life do we desire that the state shall assure to its people?" the Nietzschean (and some Christians) say: "A life of war and struggle and victory; if it contains that, little else matters." Well, that does not satisfy all—the ideal of Attila and the dervish does not appeal perhaps to most. And what is more important, it cannot satisfy all, for no one wants to be the beaten part. So you have no common ultimate test—no common denominator. Even religion does not furnish it, for the modern state has no common religious faith.

But there *are* certain common aims, certain essential realities of life, upon which the western world is sufficiently agreed for practical purposes, and which, unlike the test of victory, are capable of universal application. We accept, for instance, as an object of our endeavors, the fact of belonging by contact and association to people of one's own racial group, speech, outlook; we agree that the essential realities by which our politics must be tested are well-being in the widest and largest sense of the term, happiness, dignity, health, sufficiency, cleanliness, leisure, laughter, contact of mind with mind, satisfaction of physical, intellectual, and emotional hunger and thirst, affection, the play of childhood, grace, courtesy, beauty, love,—all those things which by the common consent of Christendom and the western world give value to human life. We have here our least common denominator, a basic moral sanction common to all western society, now that, whether we like it or not, such common sanction can no longer be found in religious dogma or in any universally accepted code.

When the Nietzschean extols war and force as beautiful and desirable in themselves, more beautiful and desirable than affection and laughter and all the other components of happiness which I have indicated, we are able to point out the two things I have mentioned: first, that his ideal not only is not common nor universal, but second, and much more important, that it cannot be, for the reason that no one desires to be the vanquished, the victim of war and force. His philosophy is only for half the world, the top half. But we are all prepared to be the "victims" of all that we mean by well-being in the sense I have indicated. And since it is a matter of pure accident often—a question of whether the rain prevented the maneuvering of our artillery—which gives victory or defeat, which

decides whether we are to be the top or bottom half, the world will prefer, if it realizes the real nature of Nietzscheanism, to give its allegiance not to an arrangement in which there are victors and defeated, victims and those who profit by the victims, but to the philosophy of partnership in which all profit alike.

But suppose that we could be sure of being the top half, what is the "moral" gain that comes of the power to dominate others by the sword?

There is no moral gain. It is an illusion. This political domination over other men is, in terms of the deepest realities of human feeling, an empty and futile thing which adds neither to the dignity nor happiness of those who exercise it, and has in it an infinity of moral danger from which no people in history has yet escaped, and never can in the nature of things escape. It carries with it indeed a fatal contradiction and stultification: it implies that a people who desire to be just to all men, to do as they would be done by, are asking others to accept a situation which they themselves would rather die than accept. We all believe it our duty to give our lives rather than be subject to the rule of foreigners, of aliens; yet this philosophy of conquest and imperialism demands that others shall accept the rule of aliens. That which we believe a moral degradation for ourselves we try to enforce upon other millions of our fellows; it is an arrangement which makes, as some one has said, of the top dog a bully, and of the bottom dog a cur. It would divide the world into master and slave, and the world should be neither master nor slave; it is the negation of human dignity and its moral foundations are unsound; it is poisoned at its roots and there never was yet a people who permanently resisted the effect of such poison.

But even the standard of judgment I have indicated, to test, that is, the purpose of the state by asking whether it insures well-being in the largest sense of the term, would not exclude war if the economic foundations of Prussianism were valid. Struggle between states would still be inevitable—we should accept it as a necessary evil even though rejecting the ethic of Nietzscheanism—if certain economic assumptions of modern statecraft were sound. That economic case—the economic justification of Prussianism—was stated in the *National Review* for September, 1913, by an English writer thus:

"Germany *must* expand. Every year an extra million babies

are crying out for more room, and, as the expansion of Germany by peaceful means seems impossible, Germany can only provide for those babies at the cost of potential foes, and France is one of them. A vanquished France might give Germany all she wants. The immense colonial possessions of France present a tantalizing and provoking temptation to German cupidity, which, it cannot be too often repeated, is not mere envious greed but stern necessity. The same struggle for life and space which more than a thousand years ago drove one Teutonic wave after another across the Rhine and the Alps is now once more a great compelling force. Colonies fit to receive the German surplus population are the greatest need of Germany. This aspect of the case may be all very sad and very wicked, but it is true.... Herein lies the temptation and the danger. Herein, too, lies the ceaseless and ruinous struggle of armaments, and herein for France lies the dire necessity of linking her foreign policy with that of powerful allies."

The author, by the way, adds, "So it is impossible to accept the theory of Mr. Norman Angell." And, as a matter of fact, if this author's statement of the case is correct, my theory is absolutely and completely wrong. I will hazard, however, the guess that the writer of the article in question has not the faintest notion of how that theory is supported; his form of statement implies that it has suppressed the series of facts to which he refers; whereas of course it has on its economic side been expressed in terms of them.

Now, it is obvious that if the view stated above is just, if a country is compelled to choose between political aggression or the physical starvation of its people, if nations are expanding units in a world of limited space and resources, then aggression and war will go on. We cannot ask a nation to commit collective suicide. I would like, however, to give a hint of the nature of the fallacy involved in this idea of the necessary economic conflict of states by reminding the reader of certain processes that have operated in human society.

When the men of Wessex were fighting with the men of Sussex, far more frequently and bitterly than to-day the men of Germany fight with those of France, or with those of Russia, the separate states which formed England were struggling with one another for sustenance, just as the tribes which inhabited the North American Continent at the time of our arrival there were struggling with one another for the game and hunting grounds. It was in both cases ultimately a "struggle for bread." At that time, when England was

composed of several separate states that fought thus with one another for land and food, it supported with great difficulty anything between one and two million inhabitants, just as the vast spaces now occupied by the United States once supported about a hundred thousand, often subject to famine, frequently suffering great shortage of food, securing just the barest existence of the simplest kind. To-day, although England supports anything from twenty to forty times, and the United States something like a thousand times as large a population in much greater comfort, with no period of famine, with the whole population living much more largely and deriving much more from the soil than did the men of the Heptarchy, the "struggle for bread" does not now take the form of struggle between groups of the population.

Yet this view concerning the necessity of Germany's expansion as a sheer matter of finding bread for her increasing population is the generally accepted view of the necessities of national expansion. One author declares that in the last resort, Germany's menace is the necessary outcome of her struggle for bread; she needs the wheat and food of Canada, or of some other colony, wherewith to feed her children. The illusion, the confusion of facts underlying this conception, can be indicated in a line or two. Is it not quite obvious that Germany, without conquering the country, can have the food by paying for it; and that even if she did conquer it, she would still have to pay for the food? That the fact of political conquest would make no difference to the problem of subsistence one way or another? I would like to hint briefly at a process, which I have sketched in very considerable detail elsewhere, showing a development in the relation of modern industrial nations to the outside world which in our political thought is all but completely ignored. This hint is conveyed in the following passage:

"In the days of the sailing ship, and the lumbering wagon dragging slowly over all but impassable roads, for one country to derive any considerable profit from another it had practically to administer it politically. But the compound steam engine, the railway, the telegraph, have profoundly modified the elements of the whole problem. In the modern world, political dominion is playing a more and more effaced rôle as a factor in commerce; the nonpolitical factors have in practice made it all but inoperative. It is the case with every modern nation actually, that the outside territories which it exploits most successfully are precisely those of which it does not 'own' a foot.

Even with the most characteristically colonial of all—Great Britain—the greater part of her overseas trade is done with countries which she makes no attempt to 'own,' control, coerce, or dominate,—and incidentally she has ceased to do any of those things with her colonies.

"Millions of Germans in Prussia and Westphalia derive profit or make their living out of countries to which their political dominion in no way extends. The modern German exploits South America by remaining at home. Where, forsaking this principle, he attempts to work through political power, he approaches futility. German colonies are colonies *pour rire*. The government has to bribe Germans to go to them; her trade with them is microscopic; and if the twenty millions who have been added to Germany's population since the war had to depend on their country's political conquest, they would have had to starve. What feeds them are countries which Germany has never 'owned,' and never hopes to 'own'—Brazil, Argentina, the United States, India, Australia, Canada, Russia, France and England. (Germany, which never spent a mark on its political conquest, to-day draws more tribute from South America than does Spain, which has poured out mountains of treasure and oceans of blood in its conquest.) These are Germany's real colonies."

I am aware, of course, of certain difficulties which partially affect this generalization—the question of hostile tariffs, of preferential treatment for the Motherland and so forth, and I have attempted to deal with them at some length elsewhere. I have space here only for the general principle, the general truth being perhaps shown more clearly by the former of the two illustrations given above—the fact that where men on the American Continent fought together for sustenance it was won in very small degree; where they ceased fighting one another and co-operated together to fight nature, they won it in very large degree. The simple facts are at least proof of this, that the struggle for material things did not involve any necessary struggle between the separate groups or states; for those material things are given in infinitely greater abundance when the states cease to struggle. Whatever, therefore, was the origin of those conflicts, that origin was not any inevitable conflict in the exploitation of the earth. If those conflicts were concerned with material things at all, they arose from a mistake about the best means of securing them, and ceased when those concerned realized the mistake.

For the moral and material futility of war will never of itself stop war—it obviously has not stopped it. Only the recognition of that futility will stop it. Men's conduct is determined not necessarily by a right conclusion from the fact but by what they believe to be the right conclusion. "Not the facts but men's opinions about the facts is what matters," as someone has remarked. If the propositions I have quoted from the *National Review* are true, war will go on: also it will go on if men believe them to be true. As long as Europe is dominated by the old beliefs, those beliefs will have virtually the same effect in politics as though they were intrinsically sound.

We reach therefore the point at which we started—that the establishment of peace in Europe is a matter of the establishment of right ideas as to the relationship of nations, above all, a correction of the idea as to the value of political power. This war—we are told it every day—is a war for the "mastery of Europe," for the domination of Teuton over Slav, or Slav over Teuton, with such subsidiary objects as the undoing of past conquests; the reconquering of conquered provinces, or, it may be, the conquering of new; and, in so far as Britain's part is concerned, the maintenance of the balance of power on the assumption that preponderant power of a neighbor is likely to be used against her. The whole struggle is, in so far as the volition of the peoples enters into its sanction or toleration at all, a struggle for the political power by one group as against another. And the whole effort of those who hope to contribute their quota to the sounder ideas which must animate the political reformation of Europe should be directed to raising the fundamental question. The question we have framed is, as applied to this struggle: "If you, Frank or Teuton, Slav or Briton, can secure this 'mastery of Europe,' how will it profit your people or add any mortal thing, moral or material, of value to their lives?" We must all realize that it can be turned to no useful end, that this thing for which Europe is now offering daily its holocaust of men, women and children, is not merely an empty and futile thing, but positively evil in its moral and material results to victor and vanquished alike; that this conception of force which it involves as the basis of men's relations, the idea that a group must either dominate or be dominated, is in a world which is necessarily a world of partnership and co-operation, a conception which sets the facts at nought; that it must necessarily misdirect the energies of men

and in political practice end in disaster; that the belief that peace is best secured by large armaments, that only by armed strength can states exist, is an evil sophism; that to treat mutual confidence between states and the attempt to form a society of nations based, as all societies must be, upon adherence to some compact rooted in common interest, as idle utopianism, is to paralyze efforts essential to a sound civilization.

In the constructive efforts of the future I believe that the influence of America is destined to be predominant. It will certainly be predominant if she realizes her opportunity. The general ideas which I have indicated are pre-eminently those for which America has stood in her own development. In the world constitution of the future, three broad principles must stand out: first, that the final appeal in government must be the consent of the governed (that provinces shall no more be transferred from one government to another as cattle are transferred from one owner to another); secondly, that the existing system of alliances by which one group pits its power against another group must give way to a system in which all are brought into alliance for the protection of each; and, thirdly, in order to place the peace of the world elsewhere than in the hands of half a dozen diplomats, international engagements of the future to be valid must be public and receive constitutional sanction, while the deliberations of the future Council of Nations must also be public. The secret intrigues of diplomats must disappear. Now these three principles of government by consent, a federation for mutual protection, and constitutional guarantees are precisely those principles which have been most completely worked out both in intention and, speaking broadly, in practice in the United States of America. America will have to come into the orbit of world affairs not as a new power taking her part in the game of grab and competitive armaments, but as the most powerful member of that partnership which is to mark the future government of the world.

America's material interest in this struggle has already been sufficiently visible and acute. It has thrown tens of thousands of her workmen out of employment; it has brought distress upon many American industries, and has compelled Congress to pass a measure for the purpose of making good a large deficit in revenue. In reality America's interest goes much deeper than this visible demonstration. If I had space, I should like very much to enlarge on that point. But the essential consideration for the moment is

this: that because of her happy isolation, both geographically and historically, from the dreary squabbles that have precipitated this war, she will occupy a position of moral impartiality and neutrality which, if properly used, will give her the leadership of the world state of the future. In all probability, the treaty of peace will be signed in Washington, and it is likely to come as an act of mediation (which the combatants are not able to perform for themselves, and which no one of them is able to perform for the others) from the President of the United States. It will afford for the American people an opportunity to do a service to mankind greater than that yet performed by any people in history. But that service cannot be accomplished without due moral and intellectual equipment on the part of the American public and its representatives. Such equipment has, of course, in large part been given by the special circumstances of America's historical development, but only in part. If during the next ten or fifteen years America is to seize and maintain the lead in world polity, to impress her stamp upon the character of future world government, it will be because there is a wide and general comprehension of the essential truths of human intercourse. There must be disseminated, in other words, an abiding faith in, and understanding of, the fundamental principles that I have described. And that faith and understanding will probably be formulated and strengthened mainly through the work of American teachers.

If there be any truth in the English view which I have mentioned at the beginning of this article, namely, that this war is the outcome of a national philosophy in Germany which is the work of half a dozen writers and a dozen university professors—and I think that there is something, at least, in that view, however much it may have been exaggerated,—what service may not an equivalent number of writers and professors in America do for their country and for the world at large, by exposing the fallacies of the false philosophy and giving to the active minds of their country the foundations of the true philosophy? Could an American ask for a better place for his country in the future history of this period than that it should be said: "The philosophy which played so large a part in provoking the world war of the twentieth century came mainly from the universities of Germany; but the philosophy which played the largest part in the world peace which mankind has since enjoyed came mainly from the universities of America."

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FOREWORD.

The second edition of the "Outline of Lessons on War and Peace" is published while the greatest tragedy of all the ages is being enacted and in a year which may be the most critical in human history. Of the eight nations which own nine-tenths of the armaments of the world, six are at war; the seventh, Italy, may still become involved in it and the United States alone is safe and free to think and work for peace.

This war has come because the remedies offered by the physicians of peace and justice had been refused and the quack nostrums of the militarists had been swallowed, not only by the monarchs, but by gullible taxpayers. The chief cause for hope is that no people wanted this war and had there been time for the great forces of sanity to mobilize, war would have been prevented. The millions who are slaying each other and destroying the best that humanity has achieved were entrapped, every voter as helpless as a nonvoter, and all opposition silenced by lies, bewilderment and haste. Failure to create proper political machinery that could express the people's will is responsible for this unspeakable catastrophe. In this crisis, America and the neutral nations have a great task to perform in proffering mediation and in proposing terms of permanent peace. Public opinion had never such an opportunity to save humanity from a system which, if continued, will lead to more militarism and the decay of civilization.

The study of world peace now becomes the paramount duty of every man and woman who can read and think. The twisted logic and confused thinking, the alliances, balance of power and secret diplomacy which have driven millions of rational beings, with no quarrel with each other, into this senseless conflict must be examined as they never were before. Two new organizations formed within a year give hope of great usefulness in the campaign of peace education which now becomes imperative; these are the Church Peace Union, 70 Fifth Avenue, New York City, and the Woman's Peace Party, 116 South Michigan Avenue, Chicago, Ill.

All references to war in the following pages are to international war, not to rebellions or revolutions within a country. The two are in different categories. The order of lessons may be varied, and the whole amplified or condensed for various purposes. In order to maintain interest, classes should meet at least twice a month. Doubtless every town library, if asked, will secure the reference books required for the course. When not otherwise stated, books and pamphlets referred to may be had on application to the World Peace Foundation, 40 Mt. Vernon Street, Boston. *Single copies of pamphlets referred to and published by it, including this "Outline," sent free on application.*

OUTLINE OF LESSONS ON WAR AND PEACE.

LESSON I.

THE NATURE OF WAR.

1. **War is the deliberate, organized killing of one body of human beings by another body of human beings.** Clear definition very essential. Vast confusion and dangerous inferences from frequent confounding of different kinds of war and war with other forms of contests; the word often used in different meanings in the same sentence. Animals fight without deliberation, not in herd or pack, and rarely *kill their own kind.* Cobras do not *en masse* fight other cobras, nor tigers unite to slay tigers. Men the anomaly in the animal world in deliberately joining to destroy their own kind. War is less brutal than fiendish; love of it is not so instinctive in man as lusts and appetites or fisticuffs.

2. **War saps the virility** of a people, killing the most fit and leaving the least fit to beget posterity. Unlike contests against environment,—hunger, disease, ignorance, etc.,—war injures and degrades man. A few once self-indulgent men may gain fortitude by it, but the race is weakened. Compare Canadians with Venezuelans, the peaceful with constant fighters. Virility of Chinese, the only ancient people which survive; they always esteemed the scholar more than the soldier.

3. **Decline of war:** once the trade of every man. Except for getting game, primitive woman supported the family. Once there was a Hundred Years' War, a Thirty Years' War, a Seven Years' War. Umpired athletic contests are now replacing among youth the school fights of two generations ago. Like religious persecution, the witchcraft delusion, slavery, all abolished within two hundred years, war will end hundreds of years before murder, riots, intemperance, lust, corruption disappear, and a thousand years before prospects of the "Millennium."

4. **Four kinds of war:** sharply discriminate between them; each in different category.

Past war: killing in hand-to-hand fights; living on enemy's flocks and herds; at later stage, hired soldiers; no war loans saddling debts on posterity; no sanitation, nurses nor protection of non-combatants; neutral nations not much affected; no possibility of world organization nor easy preventives of war until recently.

Future war: projectiles thrown below horizon at invisible foes from a battleship that costs wages of 5,000 men for one year; generals directing troops from the rear by wireless; non-combatants not killed, but cruelly taxed; huge war loans; possibly war in the air; inventions making our present costly armaments useless; neutral nations suffer greatly; in the Balkan War they lost hundreds of millions of dollars in commerce.

Civil war: essentially impromptu, long preparations impossible; may occur after international war ends; as difficult for a World Court to suppress civil war as for our Supreme Court to prevent riots within a state. Future civil war may be prevented or settled by mediation of neighbor nations. Overthrow of tyrants or suppressing rebellion a pardonable excuse for one side in some past civil wars.

International war: sometimes inevitable in the past under given conditions; never pardonable in the future, as ample substitutes are available and conditions changed,—this to be explained later.

QUESTIONS AND TOPICS FOR DISCUSSION.

1. How does war differ from massacre? dueling? riot? animal contests? and from wholesome struggle against environment?
2. How many years and when has our republic fought with other nations?
3. Why were there fewer wars in the world in the 19th century than in the 18th?
4. How war reverses the principles of stock-breeding and leaves the unfit to propagate. See Jordan's "The Blood of the Nation"; also Norman Angell's "The Great Illusion," Part II, Chapter IV.
5. Show fallacy of Admiral Mahan's statement, "All force is, by degree, war." See "Swords and Ploughshares," pp. 92, 93; fallacy that Jesus sanctioned war by driving out the money-changers.
6. What kind of a war was our Revolutionary War? civil or international? Discuss other revolutions and their results.
7. Graphic pictures of war. See "Lay down your Arms," Baroness von Suttner; "The Downfall," Zola; "The Human Slaughter-House," Lazarus; "Pride of War," Janson,—a powerful narrative of the war in Tripoli. Article in *McClure's Magazine* by Frederick Palmer, September, 1913, on "The Most Up-to-Date Business—War."

LESSON II.

COMMON FALLACIES ABOUT WAR AND PEACE.

1. **That rival armies and navies are national police.** Dangerous vie 7, but held by millions of Christians, who in consequence vote for huge armaments and assume that we shall have "the army and navy forever." Police and militia will always be needed; their function totally different from rival navies and all large armies. Our small army

sometimes used as police in time of earthquake, flood, forest-fire or riot. Police function is primarily to preserve property, save life, do kindly protective work; police must use minimum of force when arresting, simply enough to put on handcuffs and convey criminals to court. Navies are ordered to use maximum of force; they exist to destroy and never convey to international court. Police exist to secure justice and not to fight other police. Navies and great armies have nothing to do with obtaining impartial justice, but are created to be ready to fight each other, though occasionally doing police duty. Function of police Ex-President Eliot places far higher than that of soldier. Illustrate and amplify this.

Militia functions are essentially different from army's in war. Militia is forbidden to shoot a fleeing mob after the riot act is read; they never fight the militia of another state; often perform police functions; but rival armies and navies are tools of governments which prepare for international dueling. Rival navies and armies must gradually be reduced and used for peaceful public service and for an International Police. Nations acting in concert will control such police and so maintain justice. See "The New Peace Movement," pp. 82–94.

2. **That government is based on physical force.** All governments use physical force, but none is chiefly based on it. The most stable government, like our own, rests on the will of the people. The most unstable, like Russia's or Turkey's, rests far more on force; yet even these two depend far more on money, agriculture, commerce, inventions and trained leaders than on armies and navies. No force possible unless soldiers are fed and paid. Our government rests besides on police, courts, schools, the press and the respect of other nations. For most of the last century we had a very small navy, yet were respected, and we have never been attacked by an outside power since the Revolution.

3. **That human nature must change before war can end.** The same thing once said about slavery. Human nature has changed in the last century by creation of conditions which leave much innate deviltry dormant and give outlet to innate love of contest in struggle against environment. Contrast conditions one hundred years ago with those now as regards insane, children, women, wounded in war, slaves, cruelty, proportion who voted, achievements of missionaries among cannibals, intemperance, a sense of democracy and brotherhood of man. Though human nature changes, federation or union of small political units has done as much for peace as even change of human nature.

4. **"In time of peace prepare for war,"** a maxim hundreds of years old. Any value it ever had has passed. Our century should substitute "In time of peace prepare for peace," despite the constant

claim that preparedness for war insures peace. Preparations for war are becoming more costly in the long run than modern war itself. The supposed remedy for war must now be counted almost as bad as the disease. See pamphlet on "The Drain of Armaments."*

5. **That questions of vital interest and national honor should not be arbitrated.** Individuals constantly arbitrate such since dueling ceased. That "Uncle Sam will never arbitrate a slap in the face" is cheap and heathenish talk. Uncle Sam has had no "slap" for a century, if indeed ever. Alternative to peaceful settlement is killing thousands of innocent soldiers to avenge an "insult" from government officials who never fight.

6. **That compulsory military training is good for all youths.** It has some advantages, with many disadvantages. The former could be had by strict, systematic work under government requirement for those unable to pass certain physical and educational tests. Physical drill, lessons in hygiene, life-saving, etc., practical service of country in planting forests, etc., could replace study of art of killing. French and German youths from 17 to 19 much better off if drafted for this instead of being compelled as now to leave field, shop and factory for two or three years for military service from 19 to 22 years of age.

7. **That our armaments are a national "insurance."** Our military charges in the last 30 years equal $4,000,000,000; this is 13 times cost of the Spanish War. If armaments "insure," we paid a premium 13 times greater than the loss, plus the loss itself!

QUESTIONS AND TOPICS FOR DISCUSSION.

1. Is there historic ground for belief that "conquer we must when our cause it is just"? Why did we conquer in the Mexican War, which General Grant called one of the most unjust wars ever fought by a strong people against a weak one?
2. Can both sides, however sincere, be equally right? Was there ever a war more than fifty per cent. just? Mention wars in which neither side had just claim.
3. Point out fallacy in "Will war end with this century? Not unless injustice ends." (Lyman Abbott.)
4. When and how did dueling end in English-speaking countries? Where is it still recognized?
5. In what exceptional instances has our navy been used for real police functions?
6. Why do Great Britain, Germany and Italy have no wars now within their borders as they had constantly centuries ago? Is their human nature essentially different from that in the days of Chaucer, Luther or Dante?
7. The navy as "insurance." See "Swords and Ploughshares," Chapter V.
8. Mention other common fallacies, and discuss them.

**Note in each lesson that pamphlets referred to are sent free on application to the World Peace Foundation, No. 40 Mt. Vernon Street, Boston.*

LESSON III.

NATIONAL DANGERS AND NATIONAL DEFENSE.

1. **Kind and amount of defense needed do not depend on national wealth, coast line nor population,** as the militarists claim. Modern wealth, unlike ancient wealth, cannot be carried off; it depends largely on business confidence; is largely affected when foreign customers suffer. Wealthy nations can buy munitions of war quicker than poor nations. Since second Hague Conference of 1907, no undefended place can be bombarded. Our whole coast is protected by this provision or by fortification of cities. Our length of coast line is no criterion for number of battleships. Our population is less than 25 times what it was in Washington's day, yet our expense for army and navy has increased over 250 times since then. China with a population ten times that of France does not need ten times as great a navy.

2. **Sole criterion of amount and kind of nation's defense is amount and kind of danger.** The United States has no danger from without, but great dangers from within. *In its three foreign wars combined it lost less than* 15,000 *men by foreign bullets. It began all its three foreign wars.* It has had 100 or more years of peace with every nation on earth save Spain and Mexico. Neither of these attacked us. Minister Woodford declared afterward that the war with Spain would have been prevented, had we waited 48 hours. All the good we did Cuba could have been gained by securing a long truce and a wise expenditure of a tithe of what we did spend. See "Swords and Ploughshares," pp. 84–86. If no nation attacked us when we were weak, with slight commerce, and there were few substitutes for war, none will attack us now that the Hague Court has made war avoidable and our commerce and banking render us a vital factor in other nations' prosperity. Japan has no designs on us nor on the Philippines. Her interests and attention are now in manufactures and commerce, in national improvements, on holding and developing Formosa and Korea, with its millions of discontented people, and on developing Manchuria. Should she try to seize the Philippines, she must divide her forces and keep half at home to guard her new possessions, or Russia and China might encroach. We have taught her people. They are grateful and friendly. Malice, race prejudice and false suspicions fostered by those who would find excuse for building more battleships regularly create a war panic before annual vote on appropriations. Said Justice Brewer, "There are 727 active and retired officers in Washington who are making of our national capital a military center."

The man who wants contracts for armaments or will receive more glory and prestige by them is as incompetent to judge dangers and defense impartially as a judge who should try a case in which his family or income is concerned. Men whose work is technical, dealing with engineering, target-shooting, etc., the last to understand the questions of psychology, economics, history and statesmanship which affect security or danger.

3. **Internal dangers** threaten us more than do those of most great nations. We shamefully exceed them in homicides, needless accidents and lynchings. 600,000 *persons—forty per cent. of all who die—perish needlessly in our country every year.* Consider this in detail as regards tuberculosis, fire, mining, accidents, etc. The National Children's Bureau has less income than the cost of annual repairs on two torpedo-boat destroyers! Our National Bureau of Education is in sore need. Defense against child labor, vice, poverty, ignorance, etc., suffers because of our artificial panics and silly fears about nations with which we have kept the peace since the republic began. We put our chief defense where it is least needed, and our least defense where most needed.

QUESTIONS AND TOPICS FOR DISCUSSION.

1. What dangers have Germany and Japan that we have not?
2. "The Truth about Japan,"—see pamphlet with that title.
3. War-scares about Japan. See Jordan's "Unseen Empire," pp. 111, 122.
4. What evidences are there of the Kaiser's friendliness to the United States? Could Germany gain anything by injuring us?
5. National dangers. See Chapter II, "Swords and Ploughshares," also the World Almanac and Jordan's "Unseen Empire," pp. 158-167.
6. Why do we not dread the greatest naval power on earth?
7. How does the space devoted in our newspapers to war games and maneuvers and military news compare with the same in the period before the Spanish War?

LESSON IV.

THE MODERN WAR SYSTEM AND ITS COST.

1. **Preparation for war.** This preparation, in the words of Czar's rescript of 1908, "is bringing about the very cataclysm it is designed to avert." Conscription with recent increase in all Europe except Great Britain. Millions of non-producers, including volunteers in other lands, fed, clothed, equipped with costly weapons. Vast numbers drawn from constructive work to prepare short-lived, destructive weapons. Millions of European women in consequence drawing loads or digging

fields, doing men's outdoor work. Strenuous efforts being made in England to get conscription adopted and in the United States to have an enormous trained reserve force.

2. **Cost.** All told, for the world's annual war preparations over two and a quarter billion dollars; equals $2.25 spent every minute during Christian era, or a pile of dollar bills piled like leaves in a book 116 miles high! Loss of earnings of non-productive soldiers doubles this. The United States has spent for all purposes during its history $21,500,000,000. Of this, $16,000,000,000 was spent on war and its incidents. Ponder these startling facts; learn them by heart; pass them along.

3. **War loans:** a modern invention, placing burdens on fourth generation of posterity even if war ceased to-day! See Jordan's "Unseen Empire," pp. 23–51.

4. **Competition in armaments.** Each nation naïvely asserts it arms "simply for defense"; that security demands its own armaments must exceed its neighbor's. A must outrank B, and B must outrank A! England's theory that its navy must equal any two-power equipment (the United States excepted). Result: steady increase in inventions for war; in other inventions to counteract the first, *e.g.*, torpedo boats and torpedo-boat destroyers; still more to counteract the second invention, etc.; focusing inventive thought on destructive work, withdrawing it from constructive; alarming increase in debts and cost of living, but no increased security.

5. **Capturing private property at sea still legalized in war,**—though nations are bound to leave private property of an enemy immune on land, it is not yet immune at sea,—a potent cause of increased fleets to protect ocean commerce. The United States has always opposed this.

6. **War-scares** chiefly due to (1) commercialized press influenced by desire to sell exciting news, and by pressure from certain vested interests; relation of the Krupp firm and other contractors to war-scares; (2) pressure from government employees who want continuance in same kind of jobs connected with war supplies; (3) militarists who have focused their minds for decades on war and are blind to its new substitutes; (4) an uninformed public, impressed by "war games" and naval parades, easily gullible by war rumors.

7. **Comparative expenditures.** The total annual income for the peace cause in the whole world equals less than the cost of one single torpedo-boat destroyer!

QUESTIONS AND TOPICS FOR DISCUSSION.

1. What does the United States spend annually for pensions? Compare this with the expense in earlier years. See World Almanac.
2. Is a national debt a blessing? See "The Unseen Empire," pp. 56–59.
3. Armament syndicates and war-scares. The Krupp revelations. *Ibid.*, pp. 102-125.

4. How would Great Britain's yielding to the request in 1907 of the United States and Germany to protect private property at sea in time of war reduce demands for great navies and profoundly affect the whole war system? *Ibid.*, pp. 92–94.

5. How militarism largely accounts for increased cost of living. See report of Massachusetts Commission on the Cost of Living, 1910 (pamphlet made up from same published by the World Peace Foundation).

6. Estimate probable number employed in building one $15,000,000 battleship with number required to build 150 trade-schools at $100,000 each, which would last more than twenty times as long as a battleship could be used and would send forth generations of self-supporting citizens.

7. Discuss the fallacy in the statement that "manufacturing armaments gives employment and circulates money."

8. How can comparative statistics regarding peace and war be so treated as to affect the imagination and be made impressive?

LESSON V.

"THE GREAT ILLUSION."

1. An epoch-making book, translated into over twenty languages. Author, Ralph Norman Angell Lane (Norman Angell), English-born, a naturalized American, educated in France and Switzerland. His keen exposure of current fallacies startles business men and statesmen. This book has impressed the great statesmen of the world,—the German Kaiser, Sir Edward Grey and others. 10,000 copies of cheap edition sold in Germany in one week; 40,000 brochures containing gist of it sent to German students by Garton Foundation.

2. **Main points.** *a. Man's struggle must be against environment, not against man.* Co-operation of man with man hastens mastery over hostile nature and bad conditions. Science and business demand increasing co-operation. *b. Human nature constantly changes.* Fighting due to scarcity of game yielded to settled industry; tribal fights were ended by union and wider area in which peaceful pursuits could flourish; end of religious war; now only conflict of States survives. This is chiefly due to certain fallacies as to the relation of political and economic interests, even though a war is supposed to be incited by sentiment of honor, revenge, etc. Profound change in complex financial *interdependence of world capitals* in the last thirty years. *c. Conquest brings no profit* to-day with civilized rival nations in fully occupied territory, though it often brought material gain under by-gone conditions. Trade depends on natural wealth and people capable of working it; is carried on by checks and is based on credit and confidence. Trade could only be destroyed by destroying population. Annexation of conquered territory annexes competitors who still compete. "Enemies" are customers and investors.

d. Success in trade to-day has no relation to size of country or to its armaments. Norway with insignificant navy has per capita nearly three times the carrying trade of Great Britain. Safety of investments not increased by armaments. Belgium's 3 per cents quoted at 96, and Germany's at only 82. Russia's 3½ per cents quoted at 81, and Norway's at 102. "Defenseless" nations in less danger of war than are those armed to the teeth. *e. Force that secures greater co-operation between parts of the body politic marks advance.* The predominant factor is shifting from the physical to the intellectual plane. The farther one gets from physical force in acquiring wealth, the greater the result. The whole book should be carefully studied. See "The Great Illusion," Chapter V, Part II.

QUESTIONS AND TOPICS FOR DISCUSSION.

1. Sketch of Norman Angell's work and theories. See "Swords and Ploughshares," pp. 139–152.
2. Weakness of some pacifist arguments. See "The Great Illusion," Chap. II, pp. 7–14.
3. Axioms of modern statecraft. *Ibid.*, Chapter II.
4. What is the essence of the great illusion? *Ibid.*, Chap. III.
5. What would result from German invasion of England? from England's annexation of Hamburg? *Ibid.*, pp. 54–62.
6. German commerce and English credit. Why Switzerland can beat Great Britain in trade with Canada. *Ibid.*, pp. 50–71.
Why has public credit improved in South America? *Ibid.*, pp. 74, 75.
How destroying competitors destroys customers. *Ibid.*, pp. 78–84.

LESSON VI.

EARLY HISTORY OF THE PEACE MOVEMENT.

13th to 18th Century. 600 years before the Hague Conference of 1899, Pierre Dubois, a pupil of St. Thomas Aquinas, presented a scheme for a permanent tribunal of arbitration similar to that accepted at The Hague. Henry IV of France with his great minister, Sully, worked out a scheme, published after their deaths, for a federation of European states. In 1624 a book by Emeric Crucé developed the thought of a regular system of arbitration. The next year Hugo Grotius published "The Rights of War and Peace," of which Andrew D. White has said, "Of all works not claiming to be inspired it has proved the greatest blessing to humanity."

In the same century George Fox founded the Society of Friends, whose tongues made others quake and caused them to be dubbed "Quakers."

The high-bred scholar and pioneer, William Penn, published in 1693 a plan for the "Present and Future Peace of Europe." The work of all these men before the 18th century was notable, but aside from that of Grotius and Fox had few practical results.

18th to 20th Century. In 1795 Immanuel Kant's tractate on "Eternal Peace" with profound insight proclaimed that war would never cease until the world was organized, and that it could never be organized until its constituent nations had achieved self-government. The 19th century at last extended the principles of democracy. At its beginning hardly a nation had real self-government, and communication was no faster than in the time of Moses. At its close nearly every nation had some form of self-government, while electricity, wireless telegraphy and steam bound the world together. For the first time in history, world organization is feasible, and it is necessary.

"The United States is the greatest peace society in the world." Free trade and peace between forty-eight states of very varying conditions and size presage the same between forty-eight nations. Our Supreme Court the forerunner of the World Court. It has always kept peace between one state and another; was never designed to prevent one-half the states trying to overthrow the national government. If, by analogy, one-half of the world fought the other half,—an unthinkable thing,—of course no Hague Court could settle such universal war. Supreme Court made peace easy; without it many interstate wars would have resulted. It cannot end crime within states, as a World Court cannot prevent civil war. When established, our Supreme Court was suspected, and it had no case for two years. The Constitutional Convention of 1787 in Independence Hall, Philadelphia, of great international as well as national significance. Principle of federation exemplified in Swiss and Dutch federations, and on continental scale by United States.

First Peace Societies in the world founded in 1815,—in New York by David Low Dodge, and later the same year in Boston by Noah Worcester and William Ellery Channing. English Peace Society founded in 1816. A great work for peace accomplished by Charles Sumner in his "True Grandeur of Nations" and other orations, by William Ladd, by Elihu Burritt, "the learned blacksmith," by Richard Cobden, John Bright, Victor Hugo, Passy and others in Europe. Five wonderful International Peace Congresses, 1843-1851, in London, Brussels, Paris, Frankfort, and again in London. Great set-back to the cause by Crimean War, when England, as Lord Salisbury said years afterward, "put her money on the wrong horse." But the whole theory of arbitration was worked out; various cases were arbitrated by tribunals set up for the occasion, before this war. The idea of a Congress of Nations was known in Europe as the "American plan."

QUESTIONS AND TOPICS FOR DISCUSSION.

1. Who was Hugo Grotius, and what did his great work accomplish?
2. What did George Fox and his followers preach?
3. Character and achievement of William Penn.
4. Of Immanuel Kant? Elihu Burritt?
5. Franklin, Washington and Jefferson on War. (See pamphlet with this title.)
6. What serious interstate differences has the United States Supreme Court settled?
7. How can the United States show the way to a United World?
8. The Monroe doctrine or British-American co-operation to protect weak South American republics from aggression. See "Right and Wrong of the Monroe Doctrine," by Charles F. Dole (pamphlet). Also Prof. Hiram Bingham's little book on "The Monroe Doctrine: An Obsolete Shibboleth."

LESSON VII.

THE TWO HAGUE CONFERENCES.

In August, 1898, the Czar issued a rescript proposing a Peace Conference to the 26 nations having ambassadors at his court,—20 European nations with the United States, Mexico, China, Japan, Siam and Persia. He sent a second rescript, January, 1899, containing program. His first thought was to call the conference merely for limitation of armaments: his second rescript offered wider scope. 100 representatives with 50 attachés met on May 18, 1899, in the "House in the Woods" at The Hague, most of them as skeptical of success as were delegates to our Constitutional Convention in 1787. Andrew D. White, our ambassador to Germany, headed the American delegation. He, Lord Pauncefote, Bourgeois of France and a few others of courage and foresight inspired remainder. French language used. President, Baron de Staal (Russia); each country had one vote; members divided into 3 committees: on Armaments, Laws and Customs of Warfare, Arbitration and other means of preventing war. Secret sessions; no stenographic reports. In the midst of proceedings, Germany's indifference largely removed by American effort. For valuable and graphic details of Conference see "Memoirs of Baroness von Suttner," vol. ii, and Andrew D. White's "The First Hague Conference."

Three great results of less than three months' work:—

a. Commissions of Inquiry.

b. Mediation.

c. Provision for Permanent Tribunal of Arbitration to which all nations might send cases; this optional. No permanent judges, but each nation appoints four competent judges, who form a panel now numbering 176. When a case is tried, the disputing states select three

or five judges from this panel by a method acceptable to both. Ratification of the conventions by respective governments delayed establishment of Tribunal until April, 1901.

First case submitted to Hague Court by United States and Mexico. A dozen cases have now been submitted, some preventing war. The Interparliamentary Union in 1904, after its Conference in St. Louis, asked President Roosevelt to call Second Hague Conference. He issued preliminary notes, but Conference was delayed until 1907, owing to Russo-Japanese War and Pan-American Conference. To second Hague Conference 47 nations were invited, the Czar asking privilege of issuing invitations. 44 nations attended, representing more than 96 per cent. of world's population. Conference met in ancient "Hall of the Knights," at The Hague, 256 delegates, 1 to 15 per country. Each country, 1 vote; delegates seated alphabetically. President, Nelidov (Russia); plenary sessions open by tickets to public. Conference sat from June 15 to Oct. 15, 1907. Divided into 4 commissions. Conventions signed provided for International Prize Court, proposed by Germany; prohibition of bombardment of undefended places; for the practical prohibition of war to collect contractual debts; and for various limitations of the field of war. So long as war remains legalized, the lessening of its cruelties and area is of highest importance. Recommendations made for appointment of judges for a permanent Court of Arbitral Justice, study of limitation of armaments, that balloons shall not be used for throwing explosives, etc. Corner-stone laid of Palace of Peace, gift of Andrew Carnegie costing $1,500,000, given at suggestion of Andrew D. White; this opened August, 1913.

This Conference provided for a third, and this means regular series hereafter; decisive step in World Organization, the most far-reaching political achievement in history: the machinery for peace between nations is being evolved; study of it is the duty of every patriot and servant of the Prince of Peace.

QUESTIONS AND TOPICS FOR DISCUSSION.

1. Jean de Bloch, his "Future of War" and help to the first Hague Conference. See introduction and preface to "Future of War" (abridged translation), or briefer account, pp. 136–139, "Swords and Ploughshares."

2. How did Commission of Inquiry prevent war between England and Russia? See Dogger Bank story in Dr. Tryon's pamphlet, "The Hague Peace System in Operation," or, in brief, "Swords and Ploughshares," p. 17.

3. How mediation ended war between Russia and Japan at Kittery navy-yard.

4. Czar's manifesto and results of second Hague Conference. See pp. 236–240, *Ibid.* The results of the two Hague Conferences and the demands upon the third Conference (pamphlet). For full account of both Conferences see Professor Hull's "Two Hague Conferences."

5. Who are our judges on the Hague Tribunal?

LESSON VIII.

ARBITRATION AND A WORLD CONGRESS.

1. **Arbitrators are umpires** chosen by parties to a quarrel to settle controversies according to best judgment, not, like a judge, according to prescribed law; often ignore technicalities and make concessions as judge cannot. Arbitration often used now by contestants in settling cases out of court. Settlement of interstate controversies by United States Supreme Court marked great advance not only in preventing war between our 48 states, but as showing way to peace between nations.

2. **History of international arbitration.** Rarely used in the ancient world. Arbitration clause put by Jay in 1794 into our treaty with England. From 1814 to 1840 only 24 settlements in the world by arbitration or special commission; 1901–1904, 63; over 150 arbitration treaties signed since, usually for 5-year period.

3. **Good faith.** Most impressive to note that no nation that gave its case to arbitration has ever refused to abide by award and gone to war; 350 international disputes in the world peacefully settled; in one instance, after arbitration a compromise; in another, mediation followed arbitration.

4. **Court of Arbitral Justice,** to interpret international law, needed to supplement Arbitration Tribunal at The Hague. Nations can then choose which they will resort to; each has advantages. This Court already agreed to in 1907 at Hague Conference, but as not all nations could be represented on the board of judges, which ought not to exceed 15 members, no plan yet arrived at.

5. The United States has led the world in arbitration, being a party to more than 100 arbitrations. But in 1897 a general treaty of arbitration between the United States and Great Britain was defeated by three senators whose combined constituents equalled less than population of Chicago. A two-thirds vote of Senate necessary for ratification of treaties. Again, in 1912, the will of the majority of our citizens and of the governments of England and France was defeated by one or two senators whose votes prevented ratification of President Taft's treaties providing peaceful settlement of all future difficulties between us and those countries. Defeat due partly to "playing politics" before Presidential election. Bitter disappointment to the world, as other nations would have followed example we set. 30,000 sermons preached in American churches and wide-spread discussion in behalf of these treaties.

6. **World Congress.** The Hague Conferences will probably eventually develop into a World Parliament with delegated powers. This

would labor for a universal coinage, better quarantine, uniform standards of weights and measures, free trade, etc., and deal with ever new international problems. *Executive commissions* to execute decisions of Congress.

QUESTIONS AND TOPICS FOR DISCUSSION.

1. Story of the arbitration between Argentina and Chile, and of the Christ of the Andes.
2. Should future World Congress, like our national Congress, have two houses, one representing governments, the other based on populations? See "The New Peace Movement," pp. 48, 49.
3. Arbitration *vs.* armaments. See *Ibid.*, Chapter VIII.
4. Apologists for war. See *Ibid.*, Chapter X.
5. The Geneva award settling "Alabama" claims involving vital interests and honor.
6. The Venezuelan arbitration of 1896, and the war-scare in the United States preceding it.
7. Growth of industrial arbitration.

LESSON IX.

VARIOUS WAYS OF PREVENTING WAR.

METHODS.

1. **Diplomacy and mediation,** *e.g.*, our own between Russia and Japan.

2. **Investigation.** The plan advocated by Secretary of State Bryan and others, "that all disputes between nations of every nature whatsoever which diplomacy shall fail to adjust shall be submitted for investigation and report to an international commission, and that the nations shall agree not to declare war or begin hostilities during such investigation and report." Twenty-nine nations before Nov. 1, adhered to this proposal, including the great powers, the first treaty being signed with Salvador. The majority of the Senate favored this procedure, while the Taft arbitration treaties with Great Britain and France failed by a few votes of getting the necessary two-thirds majority enabling the President to ratify. The Bryan plan was accepted by the Senate in executive session before submission to foreign states. Its method is a development of the Commission of Inquiry provided by the Hague Convention.

3. **Neutralization.** Process of conferring inviolability by belligerents. Applied to weak countries, *e.g.*, possibly to the Philippines when given independence; this would secure by treaty between the United States

and all possibly aggressive nations their future safety from aggression or annexation. Switzerland, Belgium, the islands of Corfu and Paxos, Luxemburg, the territorial basin of the Congo, and Cyprus are neutralized by agreement of the powers. The Suez Canal is neutralized, and the word is used with reference to the Panama Canal. The principle is applied on our Canadian border-line. Though a single nation may play the brigand, as Italy did with Tripoli, it would not easily ignore a pledge made to a group of nations to "keep hands off."

4. **Peace budget.** Every civilized nation should have a peace budget. One dollar in every $1,000 spent for army and navy would give in the United States over $280,000 a year for peace. Estimate how many statesmen, editors and scientists could interchange visits when friction threatened, and how much accurate official information might prevent misunderstanding and mistakes if this were secured by wise use of that sum. Several nations contribute to the International Peace Bureau at Berne, and England allows about $80,000 annually for a peace budget.

5. **Prohibition of war loans** to any nation that refuses investigation or arbitration a great deterrent of war. No Christian nation should tolerate loans by neutrals to belligerents. Richard Cobden, Oscar Straus, James Speyer and others have powerfully opposed them. Great powers coerce Turkey by this method.

6. **Non-intercourse** a powerful agent strongly advocated by Justice Brewer and others to compel or punish stubborn nations; is the political expression of the Christian injunction. This, when eventually incorporated into treaties as penalty for breaking faith, would enable a group of nations to coerce another into good behavior without shedding blood. The mere threat of withdrawing diplomatic, postal and, as a last resort, commercial relations would be sufficient if made by a group of nations. See pp. 115–118, "Swords and Ploughshares."

QUESTIONS AND TOPICS FOR DISCUSSION.

1. History and significance of neutralization. See pamphlet on "Neutralization: America's Opportunity."

2. Which is better, neutralization or fortification of Panama Canal? See *Ibid.*

3. The Philippine problem: how would neutralization affect capitalists scheming to exploit the islands? How affect the size of our navy needed in the Pacific? What have we as a nation gained by holding the Philippines instead of neutralizing them? Would neutralization prevent their employing advisers and teachers as China and Japan have done or provision securing protection of foreigners? See "Swords and Ploughshares," Chapter VIII.

4. How have Chinese in last few years by boycott on American goods forced amelioration of conditions? by boycott of Japanese goods brought Japan to terms? Burmese boycotts of English goods. Note distinction between sporadic boycotts, often unjust, and the legalized penalty suggested for breaking faith with several nations.

5. Why diplomacy and settling questions out of court will increase as World Court is established.

LESSON X.

PATRIOTISM AND INTERNATIONALISM.

The right patriotism consists in the delight which springs from contributing our peculiar and legitimate advantages to the benefit of humanity.—EMERSON.

1. **Patriotism means loyalty to the ideals of one's native land;** does not imply support of current national policies, right or wrong. The words,

> "I could not love thee, dear, so much,
> Loved I not honor more,"

apply to country as well as to a sweetheart. Patriots acknowledge national errors as a gentleman does personal errors.

2. **Test of patriotism,** like test of religion, is service. Patriotism often confounded with pride of ancestry, love of colonial relics, martial music and bunting,—all harmless, but involving no sacrifice. The service now most needed is to fight real foes instead of to prepare further for hypothetical ones. Colonel Waring lowering New York's annual death-list by 15,000 lives by removing filth; all civic service which helps save the 600,000 lives needlessly wasted annually or helps make our country nobler is the highest patriotic service.

3. **Patriotism often mistaught** in the schools; children, often unconscious bigots, positive their own country is always best and right. Teach that the Revolution was fought between progressives and retrogressives on both sides of the Atlantic. Show what Pitt, Burke, Fox and others did for our cause; that English text-books honor Washington as much as ours do.

4. **National anthems** should be of broad and noble scope, not apply merely to one set of citizens, like soldiers. Tune of "America" used by British, Germans and Swiss as well as by us. "Star-spangled Banner" air taken from an old English drinking-song; this song sometimes groundlessly assigned pre-eminence as being "American."

5. **Humanity.** As loyalty to family does not lessen loyalty to country, so patriotism should not lessen love of humanity. We are human beings before we are members of any race or country.

6. **Interdependence of nations** due to science, rapid communication, international regulations affecting postal relations, wireless telegraph, railroads, maritime, literary and industrial property, etc., investments in foreign lands and wholesale emigration, is transforming the world. "La Vie Internationale" in 2,650 marvelous pages records 500 present international organizations. 10,000 physicians from every land met in 1913 in London. Similar international bodies of engineers,

chemists, teachers, manufacturers, etc., meet regularly to discuss common problems. The chemist or artist from Brazil has often more in common with one from Japan or Denmark than with his banker at home.

7. **The Interparliamentary Union,** founded in 1889 by William Randal Cremer of the British Parliament, composed of 2,500 members of parliaments, organized to meet regularly and discuss international problems. Secretary of American group, S. N. D. North, Carnegie Endowment, Washington. International headquarters, Brussels.

8. **The Pan American Union,** the outcome of international Conferences with Latin-American republics, headquarters Washington, is a powerful bond of union, Hon. John Barrett, director; publishes a valuable monthly magazine in English, French, Portuguese and Spanish. Our great ignorance about and small trade with South America will soon be changed.

9. **The International Institute of Agriculture,** supported by 47 nations bound by treaty, has experts from all these countries constantly working at its headquarters in Rome, cabling simultaneously to the world's stock markets reports of crops, preventing "corners" in wheat, cotton, etc., promoting rural credits, studying insect pests, etc. It is a silent, powerful force for internationalism. Founded by the King of Italy, at initiative of David Lubin, of California; opened 1908. See pp. 48–55, "Swords and Ploughshares." All the above organizations are powerful agencies for peace.

10. **Better manners** by tourists, consuls and drummers, special courtesy to foreign-born college students, more imagination in putting one's self in another's place, and willingness to learn would powerfully help promote the new internationalism. Emphasize Garrison's motto, "My country is the world, my countrymen are all mankind"; Goldwin Smith's words, "Above all nations is humanity"; Terence's line, "I count nothing human foreign to me."

QUESTIONS AND TOPICS FOR DISCUSSION.

1. Are Americans, as a whole, patriotic?
2. How can "Patriotic" Societies best promote patriotism?
3. Is there any danger of patriotic symbols becoming a fetish, as religious symbols so often have been?
4. Mention twenty persons who have best served the United States.
5. Songs best suited for national anthems. See pp. 178–183, "Swords and Ploughshares."
6. How can patriotism be increased? Is it promoted by schools saluting the flag daily? See "The New Peace Movement," Chapter XIII.
7. Why is there much discontent in South American republics with our republic? How prevent it? Apply to Pan American Union; also to World Peace Foundation for paper on "The United States and South America."
8. How disarmament along Canadian frontier since the Rush-Bagot agreement of 1817 has promoted friendship between Great Britain and the United States.

LESSON XI.

EDUCATION AND THE PEACE MOVEMENT.

Universal education of humanity not necessary prerequisite for world peace. Specific education in international issues in six or eight great nations will achieve it for the world if public sentiment in these nations is active. Indirect education of home, school and play the most effective. Toys, table-talk, pictures, songs may promote contempt for aliens or interest in them, prejudice or justice, war or peace. Give every child stories and pictures of his little "cousins" in every land.

The American School Peace League* the best-organized body in the world for promoting in the schools the movement to replace war by law. An outcome of the First National Peace Congress in 1907 and organized in 1908; affiliated with the World Peace Foundation and the National Education Association; has branches in 40 states; is supported by leading educators of the country; is composed of teachers, normal students and those specially interested in education; no dues from teachers or students, but appeals for sustaining members. It needs income of $50,000 a year to reach our half million teachers.

The National Bureau of Education annually issues free over 12,000 pamphlets prepared by the League's secretary for peace exercises in schools on May 18; 60,000 more bought by teachers; translated into other languages. The League will issue in 1914 an important volume for teachers with material for a course in Good Citizenship. This is on a pedagogic basis, showing application of principles of justice, sympathy, loyalty in the playground, home, school, city, state, nation and family of nations; the course graded from primary schools to high schools, the earlier lessons enforced by stories and pictures, in older classes the lessons correlated with studies in history, literature, geography and civics. Norman Angell preparing text-book on civics for secondary schools, laying basis for a true internationalism.

A British School Peace League followed the American; similar leagues planned for every country; plan for an International Council composed of two eminent educators from each country, with heads of departments on standardization of history, teaching, the press; interchange of lectures and students, etc. The action of the Dutch Government in holding the International Education Conference at The Hague in September, 1914, came from initiative of the League. Apply to Commissioner Philander P. Claxton, National Bureau of Education, Washington, for information.

*Superintendent Randall J. Condon of Cincinnati, president; Mrs. Fannie Fern Andrews, 405 Marlborough Street, Boston, secretary.

The Cosmopolitan Clubs in 30 colleges and universities (movement begun in 1903) include as many nationalities and over 2,000 students; are affiliated with the International Federation of Students "Corda Fratres," and are a powerful agency to promote international understanding. Similar clubs known under different titles recently established in leading European universities through the initiative of George W. Nasmyth, Ph.D., of Cornell, head of Student Department of the World Peace Foundation. In England and Scotland are many young men in War and Peace Clubs and International Polity Clubs to study international economic relations. German students are offered prizes for the best essays on Norman Angell's writings. International Students' Congresses.

The Intercollegiate Peace Association. Dr. Thwing, of Western Reserve University, president; Prof. S. F. Weston, of Antioch College, Yellow Springs, Ohio, secretary. Holds intercollegiate and interstate oratorical contests for prizes. About 80 colleges compete. Only lack of funds prevents extending organization to 500 colleges. $2,000 given annually in prizes.

The Christian Students' Federation has nearly 2,500 associations, about 160,000 members, and, with John R. Mott as its able and inspiring leader, is a powerful agency for peace.

Cecil Rhodes scholarships, Kahn traveling scholarships, interchange of professors between Berlin and Harvard and Columbia universities, Harvard and the Sorbonne, Harvard and Japan, the Association Concordia of Japan, the Japan Society and other similar organizations in this country, and especially the Association for International Conciliation, promote good understanding among educated classes.

QUESTIONS AND TOPICS FOR DISCUSSION.

1. What prizes are offered by the School Peace League?
2. Topics issued by History Committee of the League connecting history with peace movement. Apply to secretary, and pass on to the teachers in your town.
3. "Internationalism among Universities." See Louis P. Lochner's pamphlet with this title.
4. Intercollegiate Oratorical Peace Contests. See Reports of Mohonk Conferences, 1912, 1913.
5. International Christian Students' Association. Headquarters, 124 East 28th Street, New York City. Apply for reports.
6. How to interest young people in the peace movement, see "The Friendship of Nations," illustrated, by Lucile Gulliver; written for children of 10 to 16 years. How can we lend color, music, pageantry to the peace movement and emphasize its virility? Chicago peace pageant of 1,200 school children in May, 1913, arranged by one teacher.

LESSON XII.

THE MORAL DAMAGE OF WAR.

1. **The clergy** usually support war when waged by their own country. Only one English bishop distinctly opposed Boer War. With many noble exceptions, spirit of Joshua rather than Jesus has ruled. A marked interest in arbitration now appears in pulpit. Federation of Churches stands strongly for peace, yet another war might bring out the same old sophistries among some about "battling for the Lord," "holy war," and Scriptural phrases wrested from their context; *e.g.*, "I come not to bring peace, but a sword," etc. If the spirit of early Christians had survived in Church, war would have ended in all Christian lands long ago. The Church should lead in the war against war, as such clergymen as Dr. Charles E. Jefferson of New York, and Dean Charles R. Brown of the Yale Theological School, Rev. Jenkin Lloyd Jones of Chicago, Rev. Charles F. Dole of Boston, and many like them are notably doing to-day.

2. **The citizen** in war time persecuted and traduced if he dares to differ with government policy; freedom of speech practically prohibited. Even in Philippine and Boer Wars, which were remote and not vital to life of stronger nations, many of the most patriotic citizens ostracized and injured. All sense of justice lost. Cobden and Bright burnt in effigy for opposing Crimean War.

3. **Journalist.** The modern press with its cartoons often deadlier than the sword. Aiming chiefly at large circulation, editors often controlled by owners of paper and compelled in war time to publish what is expedient for owners' interests. Courage needed as much in editorial sanctum as on battlefields. Mention strong American organs of international friendship and justice. Importance of reading at least two journals of opposite policies. Press censor may detain or alter war correspondents' reports. Little certainty of getting truth in war time. The other side rarely presented.

4. **Trader,** usually ignorant of modern economics, imagines gain in conquest. Poor Asiatics supposed to be better customers for us than our own negroes and poor whites and South Americans. If one-third of annual naval budget were spent on educating the latter to new wants and ability to purchase, a thousand times more trade would be won than by over-sea possessions. Italy's folly in expecting to gain by ownership of Tripoli. See Jordan's "Unseen Empire," pp. 72–74. France has lost more than she has gained by African possessions except for a bigger place on the map. Commercial world controls government policies. True economics consistent with ethics. "Nothing permanent is gained by brute force," said Napoleon at St. Helena.

5. **Politician.** Governmental secrecy necessary in war. Public helpless and mystified. War is a confession of political failure. Politician tempted to let soldiers atone for his blunders or insults; to discount the future with war loans; to neglect internal improvements; to yield to lobbyists for selfish contractors; to sanction falsehood and deceit. See "Moral Damage of War," Chapter V.

6. **Soldier.** Blind obedience required, with reason suspended, tends to become callous to profanity, cruelty, licentiousness. See *ibid.*, Chapter IV. Secretary Stimson confessed that American soldiers ranked worse than any others in prevalence of vile diseases. Illustrate degeneration of "Christian" soldiers in Balkan War to level of Turks and below wild beasts.

7. **Reformer.** War means postponement of all internal reforms; all charities starved; internal corruption goes unnoticed. Enormous setback of democracy and social reform in Great Britain from Boer War; killing brown men led to increased hardships to black men after Philippine War; North and South, united as brothers in this blunder in the East, made Southern views on color prevail; condition of negro in North harder than before war.

QUESTIONS AND TOPICS FOR DISCUSSION.

1. Difficulties of clergy in preaching peace. See p. 265, Walsh's "Moral Damage of War." How did the Church in Italy view the Tripoli War?
2. Why does Imperialism tend to reliance on militarism, and democracy to reliance on law? Draw illustrations from history and present conditions. *Ibid.*, Chapter XI.
3. Attitude of politicians, public and soldiers in time of war agitation. See pp. 67–78, pp. 123–126, "Swords and Ploughshares."
4. Is race prejudice with children instinctive or acquired?
5. How can we develop imagination and sympathy? the power to put one's self in another's place?
6. Attitude of the early Church on war. See Carnegie's Rectorial Address (pamphlet).
7. Moral damage from conscription and effect of war on the home.

LESSON XIII.

NEW PEACE AGENCIES.

1. **International Peace Bureau at Berne, Switzerland,** is the central agency for the peace societies of the world. President, Senator La Fontaine of Belgium, with members from various countries. It arranges the International Peace Congresses; publishes the monthly *Peace Movement* in French, German and English; carries on investigations, etc.

2. **The Interparliamentary Union** established in 1889 by William Randal Cremer, M.P.; meets annually in the different capitals; composed of members of parliaments past and present; discusses

international problems. 2,500 members. Secretary, Dr. Christian L. Lange, Brussels, Belgium. It has accomplished much and has great possibilities of influence.

3. **Association for International Conciliation** founded by Baron D'Estournelles de Constant. President Butler the head of American branch; several branches in other countries; apply to F. P. Keppel, secretary, Sub-station 84, New York City, to be put on list of names for its valuable free pamphlets.

4. **The Nobel Peace prize** of about $40,000 given annually by committee of the Norwegian Parliament since 1901; rewards conspicuous workers for peace, either individuals or societies.

5. **The Leagues for Promoting International Friendship** between England and Germany, Germany and France, etc.

6. **The World Peace Foundation,** 40 Mt. Vernon Street, Boston, Mass., founded by Edwin Ginn, with annual income of $50,000; chiefly devoted to educational work, with able experts in America and Europe; departments for colleges, students, lectures, women's organizations, publicity, etc.; issues "International Library," most important existing series of peace works, and many pamphlets on all aspects of the international movement. Edwin D. Mead, chief director; Dr. David Starr Jordan, Norman Angell, Prof. Charles H. Levermore, Dr. James A. Macdonald, Denys P. Myers, Albert G. Bryant, Rev. Charles R. Brown, Prof. William I. Hull and Hamilton Holt, among its leading workers.

7. **Carnegie Endowment for International Peace** incorporated soon after the above in 1910; annual income about $550,000; headquarters, 2 Jackson Place, Washington, D.C.; 27 trustees; Hon. Elihu Root, president; secretary and head of its department of International Law, Dr. James Brown Scott; head of the department of Economics and History, Prof. John B. Clarke; head of department of Intercourse and Education, President Nicholas Murray Butler. European headquarters in Paris; lecturers, like Drs. Charles W. Eliot and Hamilton Mabie, sent to Orient; gives aid to peace societies; supports the Association for International Conciliation.

8. **The Garton Foundation** in England which works largely in British and German universities, etc., to spread the ideas emphasized in "The Great Illusion."

9. **The American Peace Society,** with many state branches, welcomes all who desire to replace war by law. Headquarters, Colorado Building, Washington, D.C. President, Senator Burton, of Ohio; secretary, Dr. B. F. Trueblood; exec. director, Arthur D. Call. Its *Advocate of Peace* is given to every member. Annual fee, $1. This is our historic society.

10. **The American Society for the Judicial Settlement of International Disputes,** James Brown Scott, 2 Jackson Place, Washington, secretary, lays particular stress upon developing arbitration. The

American Society of International Law, Washington, renders distinct service to the cause of peace through its excellent journal and discussions of practical affairs in annual meetings.

11. **Department of Peace in the Federation of Churches** composed of 17 denominations. Secretary, Rev. Frederick Lynch, 215 Fifth Avenue, New York City. This worked valiantly for the passage of the Taft arbitration treaties. There should be a committee on foreign relations in each church to arouse interest over important peace issues in Congress, to promote better relations with foreign-born citizens and insure Sunday-school study of peace.

12. **The General Federation of Women's Clubs,** embracing a million American women, has now its special Peace Committee to promote attention to the cause in all the clubs; and the International Council of Women, representing more than twenty countries, has a Peace department. The World Peace Foundation has a regular department of Women's Organizations, under the direction of Mrs. Anna Sturges Duryea, to whom members of any such organization may apply for material or assistance.

13. **The Mohonk Arbitration Conferences,** founded by Albert K. Smiley and continued by his brother Daniel Smiley, held every May since 1895, composed of about 300 invited guests; these have included the most distinguished jurists, diplomats, delegates from chambers of commerce, clergymen and educators. Annual reports of addresses of great value. H. C. Phillips, secretary.

14. **Labor parties** and Socialist parties the world over are opponents of war. The unprivileged classes are waking to the fact that they sacrifice the most and gain least by war. Some of them propose a general strike when war is declared.

15. **The Active Interest in Peace of the Chambers of Commerce,** as expressed especially in their international congresses, is of vital importance. See pamphlet "Chambers of Commerce for Arbitration." See also pamphlet on "The Grange and Peace," showing the deep interest of our agricultural organizations in the cause.

QUESTIONS AND TOPICS FOR DISCUSSION.

1. Has your state a branch of the American Peace Society? If so, what are its plans?
2. How many and what Congressmen belong to the American Interparliamentary Group? What does it aim to do? Inquire of Carnegie Foundation, which supplies the secretary for the Group.
3. Why is need of money for the peace cause greater than for most other reforms? Why is so much more spent on palliatives than on preventives?
4. What have peace organizations accomplished? See their year-books.
5. Why are Americans peculiarly bound to lead in the supplanting of war by law?
6. "Foreign Missions and the Peace Movement." See valuable pamphlet by Samuel B. Capen.
7. "The Forces Warring against War." See pamphlet.

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BY

G. LOWES DICKINSON

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A REAL EUROPEAN PARTNERSHIP.

I should like, if I might for a moment, beyond this inquiry into causes and motives, to ask your attention and that of my fellow countrymen to the end which in this war we ought to keep in view. Forty-four years ago, at the time of the war of 1870, Mr. Gladstone used these words. He said, "The greatest triumph of our time will be the enthronement of the idea of public right as the governing idea of European politics." Nearly fifty years have passed. Little progress, it seems, has yet been made toward that great and beneficent change, but it seems to me to be now at this moment as good a definition as we can have of our European policy. The idea of public right: what does it mean when translated into concrete terms? It means, first and foremost, the clearing of the ground by the definite repudiation of militarism as the governing factor in the relations of States, and of the future moulding of the European world. It means, next, that room must be found and kept for the independent existence and the free development of the smaller nationalities—each with a corporate consciousness of its own. Belgium, Holland, Switzerland and the Scandinavian countries, Greece and the Balkan states, they must be recognized as having exactly as good a title as their more powerful neighbors—more powerful in strength as in wealth—exactly as good a title to a place in the sun. And it means, finally, or it ought to mean, perhaps by a slow and gradual process, the substitution for force, for the clash of competing ambition, for grouping and alliances and a precarious equipoise, the substitution for all these things of a real European partnership, based on the recognition of equal right and established and enforced by a common will. A year ago that would have sounded like a Utopian idea. It is probably one that may not or will not be realized either to-day or to-morrow, but, if and when this war is decided in favor of the Allies it will at once come within the range, and before long within the grasp, of European statesmanship.—*Extract from an address by Hon. H. H. Asquith, at Dublin, September 25, 1914.*

THE FOUNDATIONS OF A LEAGUE OF PEACE.[1]

I have argued, in the previous pages, that the will to peace is the only sure guarantee of peace. But as, in the past, the will has been hampered by the machinery of European diplomacy, so in the future it may and should be confirmed by a change in that machinery. The system of alliances precipitated war; a general concert must prevent it. We must create an organization by our will, and sustain our will by the organization. I will ask the reader, then, if his will is set upon peace, to go with me and ask what program we can put forward to convert will into practice when the new Europe is made after the war. For if it be not made so that it favors peace, it will be made so that it favors war. And which it will do depends in part upon the writer and the reader of this paper.

An Organization to secure Peace.

Let us note, first, for our encouragement, that the lamentable condition under which Europe has been suffering for many centuries past, was not always its condition in the past, and need not be in the future. There was a time when the whole civilized world of the west lay at peace under a single rule; when the idea of separate sovereign states, always at war or in armed peace, would have seemed as monstrous and absurd as it

The Civilized World once politically united.

[1] These pages contain extracts from the concluding pages of an essay by Mr. G. Lowes Dickinson, which has appeared in the December, 1914, and the April and May, 1915, issues of the *Atlantic Monthly*, under the title, "The War and the Way Out." The Atlantic Monthly Company, 3 Park Street, Boston, publishes all these articles complete in pamphlet form at twenty cents, or $10 a hundred.

The courtesy of the Atlantic Monthly Company in permitting the World Peace Foundation to reprint some of the constructive suggestions in Mr. Dickinson's very thoughtful and stimulating essay is gratefully acknowledged.

It may be noted that Mr. Dickinson is a member of a little company of eminent Englishmen, closely associated with the "Union of Democratic Control" but not necessarily members of it, who have been in close and frequent conference upon the problems suggested by this war. Viscount Bryce is another member of this conference. Mr. Dickinson's article may be regarded as summing up the conclusions to which he has arrived in the discussions of this distinguished company.

now seems inevitable. And the great achievement of the Roman Empire left, when it sank, a sunset glow over the turmoil of the Middle Ages. Never would a medieval churchman or state have admitted that the independence of states was an ideal. It was an obstinate tendency, struggling into existence against all the preconceptions and beliefs of the time. "One Church, one Empire," was the ideal of Charlemagne, of Otho, of Barbarossa, of Hildebrand, of Thomas Aquinas, of Dante. The forces struggling against that ideal were the enemy to be defeated. They won. And thought, always parasitic on action, indorsed the victory. So that now there is hardly a philosopher or historian who does not urge that the sovereignty of independent states is the last word of political fact and political wisdom.

Sovereign States and the Concert.

And no doubt, in some respects it has been an advance. In so far as there are real nations, and these are coincident with states, it is well that they should develop freely their specific gifts and characters. The good future of the world is not with uniformity, but with diversity. But it should be well understood that all the diversity required is compatible with political union. The ideal of the future is federation; and to that ideal all the significant facts of the present point. It is idle for states to resist the current. Their trade, their manufactures, their arts, their sciences, all contradict their political assumptions. War is a survival from the past. It is not a permanent condition of human life. And, interestingly enough, this truth has been expressing itself for a century even in the political consciousness of Europe. Ever since the great French wars, there has been a rudimentary organ, the "concert," for dealing with European affairs as a whole. There is hardly an international issue for a hundred years past with which it has not concerned itself. It has recognized, again and again, not in theory only, but in practical action, that the disputes of any states are of vital interest to all the rest, and that powers not immediately concerned have a right and a duty to intervene. Not once, but many times it has avoided war by concerted action. And though its organization is imperfect, its personnel unsatisfactory, and its possibilities limited by the jealousies, fears and ambitions of the several powers, it represents a clear advance in the right direction and a definite admission, by statesmen and politicians, that internationalism is the great and growing force of the present. What we have to do, at the conclusion of this war, is to discover and to embody in the public law of Europe the next step toward the ultimate federal union. We must have something better than the concert. We cannot hope to achieve the federation. What can we do? It would be presumptuous for any single thinker to put forward dogmatically his

own suggestion as the best and most practicable. What I here set forth is, however, the result of much discussion and of much thought. I hope, therefore, that the reader may be willing to consider it seriously, whether or not he can indorse it.

Nationality and Transfer of Territory.

The preliminaries of peace must, I suppose, be settled between the belligerents; and it is probable, though very undesirable, that they will be settled behind the scenes by the same group of men who made this most disastrous and unnecessary of wars. For that reason, and because of the uncertainty of the duration and issue of the war, it is idle to consider how it may be disposed of. All we can say is, and it is essential that we should insist upon it, that the principle laid down by Mr. Asquith and indorsed, I believe, by every one who had dealt with the subject, should be applied up to the limits of possibility; the principle, that is, that the interests and wishes of the populations it is proposed to transfer should be the only point considered, and that no power should pursue merely its own aggrandizement. Beyond this, little can be said. . . .

A Congress of the Powers.

Let us suppose, now, that the preliminaries of peace have been settled, and settled, we must hope, on right lines. There should then be summoned a congress to regulate the carrying out of them in detail, and to provide for the future peace of Europe. There is plenty of precedent for such a congress. The Congress of Vienna followed the Treaty of Paris, and comprised representatives of every European power. The Congress of Paris followed the Crimean War, and at that congress Austria was represented, though she was not a belligerent, and questions quite irrelevant to the immediate issues of the war were under discussion. The future settlement of Europe concerns everybody. Many of the non-belligerents are directly interested in the territorial changes that are likely to be made. Many are interested in the fate of small states. All are interested in peace. This war is not only the belligerents' war, nor must the peace be only the belligerents' peace.

Immediately, then, on the settlement of the preliminaries of peace, there should be summoned a congress of the powers. To this congress all the states of Europe should send delegates. But further it is most desirable that the United States should take part in it. There is precedent in the Conference of Algeciras. But if there were none, one should be created. It is, indeed, the best hope for the settlement that peace will be brought about by the mediation of President Wilson. And in that case the United States will have a clear status at the congress. It is the

only great power not involved, or likely to be involved, in the war. And it is the only one that has no direct interest in the questions that may come up for solution.

Assuming now that the congress is assembled, what will be its business? First, to appoint an international commission to carry out the territorial rearrangements, on the principle of the interests and wishes of the peoples concerned. This will be a process long and arduous in proportion to the amount of the territory concerned, and the character of the populations. At the best, readjustments of boundaries and allegiance can only imperfectly solve it. But the best chance of a good solution is an impartial commission.

An International Commission.

This, however, important though it be, should not be the main work of the congress. Its main work should be the creation of an organ to keep the peace of Europe. From many quarters has come the suggestion of a "league of peace." Mr. Roosevelt has proposed it. Mr. Asquith, as we saw, looks forward to it as coming "immediately within the range, and presently within the grasp, of European statesmanship." And it was advocated, virtually, by Sir Edward Grey when he said:

A League of Peace based on Treaty.

> If the peace of Europe can be preserved, and the present crisis safely passed, my own endeavor will be to promote some arrangement to which Germany will be a party, by which she could be assured that no aggressive or hostile policy would be pursued against her or her allies by France, Russia and ourselves, jointly or separately. (White Paper, No. 101.)

An idea thus indorsed not only by pacifists and thinkers, but by practical statesmen, is worth serious consideration. Let us try to give it some practical shape.

The powers, I propose, should found a league of peace, based on a treaty binding them to refer their disputes to peaceable settlement before taking any military measures. The success of the league would depend on the number of powers entering into it. A league, for instance, of Great Britain, France and Russia would do little more than perpetuate the present entente. A league joined by Italy would be in a better position. One joined by the United States might be invincible. But the thing to be most aimed at is the inclusion of the German powers. And that is one of the main reasons why, in the event of a victory by the Allies, everything possible should be done not to alienate Germany from the European system.

But, it will be said, what is the use of relying on treaties? This raises the question of the sanction of the treaty; a question of great importance,

and one which, unfortunately, divides those who believe in and desire peace. The one party—the extremer pacifists, and perhaps the more logical—say that treaties must be their own sanction. The whole point of peace is that men rely on law, not on force. And to attempt to secure peace by arms is, and always has been, the fundamental error of mankind. This attitude, I think, goes along with the complete and uncompromising application of Christian ethics. Those who hold it would probably say that force should never be resisted by force. They would expect to conquer force by meekness. They are the real Christians. And I respect and honor them in proportion to their sincerity. But I cannot go with them. What is more important, I know well that almost nobody goes with them; and that, in particular, no government would act, now or in any near future, upon such presumptions. It will be impossible, I believe, to win from public opinion any support for the ideas I am putting forward, unless we are prepared to add a sanction to our treaty. I propose, therefore, that the powers entering into the arrangement pledge themselves to assist, if necessary, by their national forces, any member of the league who should be attacked before the dispute provoking the attack has been submitted to arbitration or conciliation.[a]

The Sanction of the Treaty: (1) Force.

Military force, however, is not the only weapon the powers might employ in such a case; economic pressure might sometimes be effective. Suppose, for example, that the United States entered into such a league, but that she did not choose, as she wisely might not choose, to become a great military or naval power. In the event of a crisis arising, such as we suppose, she could nevertheless exercise a very great pressure if she simply instituted a financial and commercial boycott against the offender. Imagine, for instance, that at this moment all the foreign trade of this country were cut off by a general boycott. We should be harder hit than we can be by military force. We simply could not carry on the war. And though, no doubt, we are more vulnerable in this respect than other countries, yet such economic pressure, if it were really feared, would be a potent factor in determining the policy of any country. It is true that no nation could apply such a boycott without injuring itself. But then the object is to prevent that greatest of all injuries, material and moral, which we

(2) Economic Pressure.

[a] It is in this case only that the powers would be pledged to employ force, if other means fail. As will be seen below, it is not proposed that they should bind themselves to employ force to insure the performance of an award of the court of arbitration, or the adoption of a recommendation of the council of conciliation.

call war. We can then imagine the states included in our league agreeing that any offender who made war on a member of the league, contrary to the terms of the treaty, would immediately have to face either the economic boycott, or the armed forces, or both, of the other members. And it is not unreasonable to think that in most cases that would secure the observance of the treaty.

Example of how such a Treaty might work.

To get a clearer idea of how the arrangement might work, let us suppose it to have been in actual operation at the time this war broke out, and that all the great powers, including the United States, had entered into such a league as I propose. Austria-Hungary's ultimatum to Servia would then have involved a breach of the treaty, and would have been prevented by the joint action of all the other powers. If Germany had supported Austria, she, too, would have become the common enemy. We should have had then not only the powers of the Triple Entente, but also Italy and the United States, leagued against the German powers. If it had been foreseen, as in the case supposed it would have been, that that would happen, the German powers, it is safe to say, would not have gone to war. What would have been the alternative? First, the immediate occasion of the war, the murder of the archduke, would have been referred to an international commission of inquiry at The Hague. For the question of the responsibility for the murder is a purely judicial one, to be settled by evidence before an impartial tribunal. But, of course, behind the murder lay the whole question of the Balkan states and their relations to Austria and Russia. That whole question would have had to be referred to conciliation before war could take place about it. Only in the last resort, when every effort of peaceful settlement had been avoided, when a solution on just lines had been propounded and was before the public opinion of Europe, only then could war have occurred. Perhaps war might then have occurred; but if so, probably on a much smaller scale; probably confined to Servia, Austria and Russia, with the other powers ready at every moment to intervene for peace.

It may still be urged that the powers that have entered into the league will not, in fact, fulfill their obligation to intervene, by force if necessary, to prevent a breach of the treaty. But, if it be true, and be seen to be true, that peace is, at any moment, the greatest interest of the greater number of powers, then we may affirm that interest will reinforce obligation and that the duty imposed by the treaty will be fulfilled. The violation of one treaty obligation . . . must not make us suppose that no power will ever keep treaty obligations. The most cynical may admit that they

will be kept when and if the interest of a power is on the side of keeping them. And, in this case, it would appear that generally the interest of the signatory powers would coincide with their duty.

Let us now proceed to a more detailed consideration of the machinery of arbitration and conciliation to which it is proposed that the powers should bind themselves to refer their disputes.

"Justiciable" Disputes to be referred to Arbitration.

Among the disputes that may arise there is a distinction, well recognized both in theory and practice, between those capable of arbitration and those requiring conciliation. The former are called "justiciable," and are such as can be settled by a quasi-legal procedure. Examples are the interpretation of treaties, or the application to particular cases of the rules of international law. The number of disputes which have, in fact, been settled by arbitration during the last century is very considerable. Two hundred and fifty is a conservative estimate.[3] Of these, no doubt, the majority were trivial. But some were of a kind that might easily have led to war. For example, the *Alabama* case, and the Alaska boundary case. Further, there is a court of arbitration, and a procedure, established at The Hague by agreement between the powers. Arbitration is thus a recognized and organized fact. All we have to do is to extend and regulate its operation. The powers entering the league of peace should bind themselves by a general treaty to submit to arbitration all justiciable disputes without exception. Such treaties have already been made between certain powers.[4] In particular, a treaty was negotiated in 1897, between the United States and Great Britain, to submit to arbitration "all questions in difference between them which they may fail to adjust by diplomatic negotiation."[5] But the majority of arbitration treaties except certain matters. Thus, for example, the treaty between France and England

[3] See Fried, *Friedensbewegung*, I., p. 291, and Darby, *International Tribunals*. (Darby's work does not support this estimate. On pages 771 to 900 of *International Tribunals* he lists 471 cases of arbitration in the nineteenth century. There have been also 125 cases of arbitration since the beginning of the twentieth century.—ED. W. P. F.)

[4] Between Italy and Denmark, Italy and the Netherlands, the Netherlands and Denmark, Denmark and Portugal, Italy and Argentina, Italy and Mexico, and the Central American States. See an article by Hans Wehberg in the *American Journal of International Law*, Vol. 7, 301, at 303.

[5] The treaty was thrown out by the Senate of the United States, but less from any objection in principle than because they were jealous of abandoning any of their power of dealing with cases of foreign policy as they might come up.

of 1904 was an agreement to submit all disputes except those "affecting vital interest, honor, or independence." But such exceptions seem to be superfluous when we are dealing with "justiciable" disputes. The "honor" of no country can be concerned in breaking either the terms of a treaty or recognized principles of international law. "Independence" cannot be touched by such cases. And "vital interests" will almost always come under the other heading of non-justiciable cases, which we are proposing to refer to a different body and a different procedure. All that seems to be necessary here is to arrange for some procedure to determine, in case of difference of opinion, whether any given dispute is or is not "justiciable." This question might be submitted either to the Hague Court or to the conciliation council proposed below. And with that safeguard I believe there to be no valid objection to a general treaty between all the powers to submit to arbitration all justiciable disputes.

But of course justiciable disputes are not those most likely to lead to war. The most dangerous issues are those where the independence or the "vital interests" of states are, or are supposed to be, involved. Perhaps in such cases, in the last resort, it may be impossible to avoid war, so long as the false notions of interest now current continue to prevail. But it would be possible to postpone it. And mere delay will often make the difference between peace and war. What precipitated the present war was, first, the ultimatum of Austria, with its forty-eight hours' time-limit, and then that of Germany, with its twelve hours' time-limit. The war was rushed. Under our proposed arrangements, this could not have happened. There would have been a period of delay, which might be fixed at not less than a year, during which the whole issue would be considered before a council of conciliation, a way out suggested, and the public opinion of all countries concentrated on the question and the proposed solution. I think it reasonable to suppose that, under such conditions, public opinion would not tolerate a war. At any rate, the chances of peace would be indefinitely improved.

Non-justiciable Disputes to be submitted to Conciliation.

The main difficulty here is the constitution of the council of conciliation. First, what kind of men should be members of it? Not, clearly, men of merely legal training, for the questions to be considered will not be merely legal. What is wanted is men of eminence, experienced in affairs, capable of impartiality, and able to take a European rather than a narrowly national standpoint. It would not be easy to find such men, but it should not be impossible. One can think of several in this country.

A Council of Conciliation.

The members of the council should be appointed by whatever method the representative organs of the countries concerned might determine. But the important question then arises: Should they be delegates, appointed for a particular purpose, under constant instructions from their governments; or representatives for a fixed term of years to act according to their best judgment? In the first alternative, we shall have a body similar to that which has represented the concert of Europe again and again during the last century. Such a body may be and has been useful. In many cases it has avoided war, though in many it has failed to do so. But its functions have not been the same as those I am thinking of for the council of conciliation. It has not aimed at discovering the kind of solution of the questions before it which would commend itself to impartial and enlightened opinion as the most fair, reasonable and permanent. It has aimed rather at bringing together conflicting egotisms and ascertaining whether or no, in the given conjunction, it is worth while for any one, or more, of them to appeal to force in face of the others. Sometimes, as in the case of the Crimean War, this question has been answered in the affirmative; sometimes, as in the case of the Belgian revolution of 1830, in the negative. But no will for a permanent settlement on lines of justice has been present. The representatives of the powers have acted under instructions, each of them considering only the supposed interests of his own state, and making concessions only when it seemed necessary to do so to avoid war, and when war for the moment did not appear to be a profitable enterprise. Further, the decisions of such a conference were to be followed immediately by action. It was natural, therefore, that temporary expedients to get over a crisis should be adopted, rather than fundamental and final reconstructions. The function I propose for the council of conciliation is different. It will have no executive power, only the power to recommend the best solution. This, it would seem, would best be done by an independent body, of which all the members should take, as far as possible, a European point of view, and none a merely national one. When they had arrived at their decision, their duty would be ended. The question of its adoption would remain for a further stage.

Constitution of the Council.

Keeping in view these facts, I incline to believe that the most hopeful plan would be that the council should have a permanent constitution, the members being appointed for fixed periods of time, and not for special issues, and acting without instructions from their governments, although, of course, acquainted with their governments' point of view, and having the confidence of their nation. On such a council there would be, if the

league were large and comprehensive, a number of members whose governments were not directly interested in the particular issue that might be before them, and who might, therefore, take a detached view. The representatives of the countries primarily interested would be able both to put their point of view and to modify it in deference to the general trend of feeling. And a solution might be finally suggested which could not be suspected of partiality. It would, of course, not satisfy fully all claims. But it would probably commend itself to the public opinion of the world. And that would be a great asset in its favor.

Still, it might be rejected by the parties most concerned. In that case what would happen? The whole question would then be one for diplomacy, and the powers would be as free to act, or not to act, as they are now. I do not propose that they should be under treaty obligation to enforce the award, or scheme, of the council. In a Europe such as we may look forward to in which there should be a regularly constituted federation there could, of course, be no place for war. But what I am here proposing is a preliminary step toward that. I am not abrogating national sovereignty nor ruling out war as impossible. I am merely endeavoring to make it a great deal less likely than it now is. And I think that the attempt in the present stage to make the enforcement of an award compulsory on the powers would not make for peace. The powers must act, in each case, as they can and as they choose. Very often they will find a settlement which avoids war. Sometimes they will not. But at least we may reasonably hope for a much more general will for peace than we get under existing conditions.

No Treaty Obligation to enforce an Award.

The improbability of war, I believe, would be increased in proportion as the issues of foreign policy should be known to and controlled by public opinion. There must be an end of the secret diplomacy which has plunged us into this catastrophe. To say this is not, of course, to suggest that complicated and delicate negotiations should be conducted in public. But there should be no more secret treaties or arrangements of any kind, like, for example, the clauses of the Morocco treaties whereby Great Britain, France and Spain looked forward to the partition of that country while publicly guaranteeing its integrity and independence before the world; or like those military and naval "conversations" by which, in effect, the Foreign Secretary pledged our honor to defend France in certain contingencies, behind the back of Parliament and the nation. All nations ought to know and constantly be reminded of all their commitments to other powers, and

Appeal to Public Opinion.

all the complications which constitute the danger centers of Europe. I am aware of all that may be said about the latent jingoism of crowds, and the power of an unscrupulous press to work upon it. But we have all that as it is. It is what governments rely upon and call upon when they intend to make war. The essence of the present situation is that no other forces have time to organize themselves, because we are actually at war before we have begun to realize the crisis. With plenty of time and full knowledge the better elements of public opinion could be rallied. The proposed league of peace would secure the necessary delay. If, then, at the last, the public opinion of any nations insisted on war, there would be war. But at least every force working against war would have come into play.

Non-interference with Internal Affairs of Any Nation.

The objection is sometimes taken against our proposal that the league will be led to interfere in the internal affairs of its members, as the Holy Alliance did under the influence of Metternich. But this objection appears to rest on a misconception. In so far indeed as internal unrest in any state might generate international complications—as, for example, in the case of the oppression of the Slavs by the Magyars—it would be the duty of the council of conciliation to suggest a solution which would involve changes in the internal policy of the state in question. But the powers included in the league would not be bound to intervene by force, if the solution should be rejected. And if any of them did in fact intervene, that would not be in consequence of the league, but in pursuance of a policy which they would have adopted in any case, league or no league. The only contribution made by the council would be a wholly satisfactory one—a recommendation to a state pursuing an unsound policy, of a policy more sound and more likely to lead to peace, a recommendation made by a body which might fairly claim to be supported by the public opinion of the world. Such a recommendation might be successful, and, if it were, it would be all to the good. If it were unsuccessful, the result would be at least no worse than if the league had not existed. For the terms of the treaty confer on the members of the league no right, and impose no duty, to intervene by force in the internal affairs of the component states.

Limitation of Armaments.

Given a league of peace, a limitation and reduction of armaments might follow. It might, indeed, be introduced even if no such league were formed. For economic exhaustion might lead the powers, after this war, to attempt seriously the limitation which was the immediate object of the First Hague

Conference, but which was rejected as impracticable. It is most desirable that they should do so. Yet it seems clear that whatever basis of limitation was laid down, there would be plots to evade it on the part of one or another power, so long as there is no security against sudden and unprovoked attacks. Such security might be given by a league of peace. I do not see how it could be given otherwise. Nor would a mere limitation of armaments, in itself, prevent such attacks. It would make war less destructive; it could not make it impossible, or even improbable. Desirable, therefore, though this measure may be, it would seem that it would naturally follow or accompany, rather than precede, a league of peace.

In any case, governments should cease to employ private armament firms. I am aware that there are technical and economic reasons to be urged against this course. But I believe them to be outweighed by the fact, now sufficiently proved, that the private firms deliberately encourage the growth of armaments, in order to get orders for their goods.

Conclusion.

The suggestions here put forward are not intended to be more than a sketch of what might be immediately practicable at the peace. They do not profess to represent in themselves an ideal. For political arrangements cannot constitute an ideal, they can at most give it opportunity to realize itself. I hope, therefore, that after meeting the opposition of the skeptics and the practical men, I shall not have to meet that of the idealists. Some day, I hope with them, a Europe will come into being in which there will be neither enemy states nor rival armaments. But the time is not yet. There are many forces working in that direction, if only they had time to do their work. I want to give them breathing space. For what happens, under present arrangements, is that during years of peace the movement of civilization proceeds, in its two inseparable aspects of social reform and international organization. Pacifists grow hopeful and active. Commerce, travel, art, literature, science, begin to unite the nations. Armaments appear ridiculous, and wars, what they are, crimes. But the enemy is watching. Silently, behind the scenes, he has been preparing. In a moment he strikes, and the work of a quarter of a century is undone. Let us be under no illusions. While there is war, there can be no secure progress. If we want society to develop into anything good, we must stop war. That, in itself, it is true, will not give us the ideal. But it will remove a main obstacle to it. Change of will, change of ideas, moral and spiritual development, that is what we want, I agree. But we can no longer afford to rely only on that. For before that has become strong enough to make war impos-

sible, war arrives and destroys the development. A device to avoid war, even though it be in a sense only mechanical, is therefore none the less essential. Then, within the peace thus secured, the new Europe may slowly be built up. Otherwise, those who want no new Europe can always sweep away its rudiments by force. I ask, therefore, the support of idealists, as much as of practical men. I ask the support of all except those who believe that war itself is the ideal. Of those who believe in peace these men are the only ultimate enemies. But they cannot be converted. They must be circumvented. And what I suggest would, I believe, be a way to circumvent them.

APPENDIX I.

A CONGRESS OF NEUTRALS PROPOSED IN THE PAN AMERICAN UNION.

The first international conference of neutral nations which discussed questions arising out of the present war was a meeting of the Governing Board of the Pan American Union at Washington, December 8, 1914. The delegates from eight American republics, most of them acting under specific instructions from their governments, urged united action by the American nations to assert the necessity of newer and clearer definitions of neutral and belligerent rights, and to consider some of the burdens placed upon commerce by the European war. It was declared by some of the speakers that the complications between American and European states already resulting from the presence of belligerent warships in American waters had demonstrated anew the vital need of Pan American solidarity.

After a general discussion the following resolution was adopted unanimously:

The Governing Board of the Pan American Union declares:

1. That the magnitude of the present European war presents new problems of international law, the solution of which is of equal interest to the entire world.

2. That in the form in which the operations of the belligerents are developing, they redound to the injury of the neutrals.

3. That the principal cause for this result is that the respective rights of the belligerents and the neutrals are not clearly defined, notwithstanding that such definition is demanded both by general convenience and by that spirit of justice, which doubtless animates the belligerents with respect to the interests of the neutrals.

4. That considerations of every character call for a definition of such rights as promptly as possible upon the principle that liberty of commerce should not be restricted beyond the point indispensable for military operations.

On these grounds the Governing Board of the Pan American Union resolves:

1. A special committee of the same is hereby appointed to consist of nine members, of which the Secretary of State of the United States shall form part, acting as chairman thereof ex-officio.

2. This commission shall study the problems presented by the present European war and shall submit to the Governing Board the suggestions it may deem of

common interest. In the study of questions of technical character this commission will consult the Board of Jurists.

3. Each government may submit to the committee such plans or suggested resolutions as may be deemed convenient, on the different subjects that circumstances suggest.

The committee was immediately appointed, to consist of the Secretary of State of the United States, and the Ambassadors from Brazil, Chile, Argentina; the Ministers from Uruguay, Peru, Ecuador and Honduras. Mexico was not represented.

To the committee thus created the Government of Venezuela instructed its representative at Washington to submit a proposal for a congress of neutrals. This proposition was formally presented to the committee, January 7, 1915, by the Venezuelan Minister, Dr. Santos A. Dominici, in a speech of which the following paragraphs are an abstract:

We all agree that the circumstances attending modern warfare demand, more sternly each day, new limitations of the rights of belligerents in order to safeguard the rights of neutrals, and that it is beyond discussion that over against the rights of belligerents stand the rights of neutrals to prepare and organize an effective action for their own security.

This is the action proposed by Venezuela in the shape of a congress of neutrals to define, in the light of modern warfare, the rights and duties of neutrals, and in time to submit their conclusions to a congress of all nations; these conclusions, after being unanimously accepted—as it is meet they should be, as a matter of justice and expediency, because the belligerent of to-day is the neutral of to-morrow—should be embodied definitely in international laws.

The Venezuelan Government also believes that such a congress might establish a new duty, that of a union of neutrals in case of conflicts of the magnitude of the present, in order to protect their own interests; a duty the logical consequence of which would be a new right, that of mediating, which should, of course, be exercised with all such restrictions and limitations as would make it compatible with the respect due to the rights of belligerents. Thus we should, by a further step, come to the creation of a permanent body, which from the very beginning of a conflict would represent such union of neutrals, and in the exercise of its right to be heard might in the majority of cases avoid a rupture, and in any case might limit the extent, duration and range of hostilities.

APPENDIX II.

INTERNATIONAL COMMISSION OF INQUIRY.

(From the New York *Times*, April 23, 1915.)

The Secretary of State of the United States announced on April 22 that a peace plan for the nations of the Western Hemisphere had been presented to the Governing Board of the Pan American Union. This plan has been suggested by the Republic of Honduras, and was submitted to the Governing Board by Alberto Membreño, Minister from Honduras to the United States. It is being considered by the special Pan American commission, appointed in the early stages of the war in Europe by the twenty-one nations constituting the union.

The Membreño memorandum is in reality an extension of the Bryan peace plan under which the Wilson Administration has ratified treaties with a number of foreign nations providing a method of endeavoring to adjust differences and avert wars. The text of the memorandum follows:

Mr. Chairman: While this committee was appointed only for the purpose of submitting its recommendations as to the means to be adopted to safeguard the rights of neutrals, in view of the European war, I do not deem it amiss to suggest that a rule be adopted tending to avoid armed conflicts. Before trying to forestall the evils of war we must endeavor to have such a scourge disappear forever from the face of the world.

Among the wise provisions contained in the Hague Convention of 1907, there is one, in Article IX., creating an international commission of inquiry. Unfortunately, this provision excludes, from the remedy provided, disputes involving either the honor or the vital interests of nations; in other words, the very cases in which the services of impartial parties are most needed to study the issue calmly. Experience shows that duels are not fought—and duels are serious questions of honor among individuals—when the seconds obtain an explanation which is satisfactory to the one who claims that an offense has been committed demanding a blood satisfaction. Those who discharge executive functions in the government of states are, so to speak, more strictly under obligation to hear and consider reasons based on justice and expediency because, if it is true that in war they run a certain amount of personal risk, the greatest sacrifice is made by the people, and the damage, as in the present instance, extends to all nations.

The Government of the United States, representing the people of the United States—a people who believe that the prosperity of nations results from work and

not from the extermination of those who in the struggle for life are battling for victory—has enhanced the principles set forth by the authors of the Hague Convention, in the sense that the commission of inquiry may take cognizance of all disputes of every nature whatsoever.

This doctrine as amended is a part of the treaties lately concluded between the United States and almost all the American nations, as well as many European countries. We may, therefore, embody it in international law.

I take the liberty of proposing that the members of the Governing Board of the Pan American Union present to their respective governments for their consideration the following rules:

1. All disputes of every nature whatsoever which it has not been possible to adjust through diplomatic methods shall be referred for investigation and report to an international commission, and, pending the full discharge of its duties by said commission, the nations engaged in the dispute cannot declare war or begin hostilities against each other.

2. This commission shall be a permanent one, and may act on its own initiative. In this case it behooves the commission to serve due notice to the parties in dispute, and to request their co-operation in order fully to discharge its duties.

3. The number of members of which the commission shall consist, their qualifications, manner of appointment, place where the commission shall sit, manner of procedure, and time for the submission of its report, shall be fixed by treaty or by any other method whereby the agreements reached by the governments may have full force and authority.

ALBERTO MEMBREÑO.

APPENDIX III.

GERMAN SOCIALIST PROGRAMS.

Early in April, 1915, a conference of leaders representing both German and Austrian Socialists was held at Vienna. It was necessarily a secret conference and many of those who attended went at considerable risk and under the necessity of secrecy. The result of their deliberations was announced in the German Social-Democrat organ, *Vorwaerts*, and the following translation of their conclusions was published in the New York *Times* of April 21:

Vorwaerts announces that at a conference of German and Austrian Socialists, held in Vienna, it was agreed that the following guarantees must be secured after the war:

1. International arbitration courts must be developed into obligatory tribunals for settling all differences between nations.

2. All treaties and agreements of states must be submitted to the democratic parliamentary control of a representative assemblage.

3. International treaties for limitation of armaments must be agreed upon, with a view to disarmament.

4. The right of every nation to determine its own destiny must be recognized.

5. The fact that Socialists of belligerent states are defending their countries in war must not be made a barrier to maintaining the international relationships of all Socialist parties or to activity in their international arrangements.

The non-militarist section of the German Social-Democrat party, the group headed by Dr. Karl Liebknecht, Dr. Ledebour, Herr Ruhle, Herr Mehring, Clara Zetkin and Rosa Luxemburg, have issued a manifesto which was sent to Rotterdam by messenger. The letter accompanying it was dated March 12, 1915, and the manifesto was published in English translation in the New York *Call* of Sunday, April 18.

The signers declare their acceptance of the principles adopted at the International Socialist Congresses at Copenhagen and Basle, and they especially emphasize the following:

1. No annexations.
2. Political and economic independence of every nation.
3. Disarmament.
4. Compulsory arbitration.

These sentiments are acknowledged by only a small minority of Social-Democrat delegates to the Reichstag, but it is a subject of dispute in the party whether a large section of the Social-Democrat voters agrees with them or not.

In this connection it is worth while to recall two remarkable utterances by Prince Bismarck, who was the true founder of the modern German Empire and who occupied a point of view in most respects diametrically opposed to that of the Social-Democrats.

"I regard even a successful war as in itself an evil from which peoples must be saved by the science of statemanship."—*From Prince Bismarck's circular letter to the representatives of the North German Bund, July 29, 1870.*

"The mass of the people has usually no inclination for war. The torch of war is lit by minorities, or, in absolute governments, by rulers or cabinets."—*From a speech by Prince Bismarck, in the Reichstag, February 9, 1876.*

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WORLD PEACE FOUNDATION

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A CONFERENCE OF NEUTRAL STATES

The sinking of the *Lusitania* and other similar events have clearly demonstrated a constant conflict between the claims of belligerents and the rights of neutrals.

That conflict implies an ever-increasing danger that each neutral state, attempting to defend its rights singly instead of in concert, may be drawn into the struggle. If the violation of neutral rights continues, an irresistible demand for strong action will be inevitable. As an alternative to violent measures, the World Peace Foundation proposes the prompt convocation of a conference of neutral nations, as the most practicable and effective step toward the maintenance of neutral rights and the betterment of international relations.

Such a conference of the non-belligerents has been needed since the war began. It is needed more with every day that the war continues. It should consider and promote the proper definition and defense of the rights and duties of non-belligerents in time of war. It should take diplomatic cognizance of a new fact, already universally recognized, that, in a world so closely articulated and interwoven as ours, a declaration of war by one great nation against another virtually compels many other nations to become involuntary participants in the strife. In relation to this fact, the conference of non-belligerents ought to consider how far, under modern conditions of warfare, non-belligerent states may assert and defend the paramount importance of their own rights as opposed to the rights or claims of belligerents. Furthermore, it is the peculiar duty of an association of neutral states, in time of war, to represent and to safeguard the highest interests of Humanity and Civilization, which are placed in jeopardy by the lamentable relapse into belligerency.

Such a conference should be watchful for suitable opportunities for suggestions of mediation, conciliation and arbitration. It may also consider and formulate the principles and policies which the

states, represented by it, should advocate for the reorganization of the world, when negotiations for peace begin and the war is ended. Non-belligerents and belligerents will then be equally concerned in securing, if possible, a reconstruction of our civilization so as to establish a régime of Peace with Justice, under Law.

The Conference of Neutrals might properly be convoked by the United States, or preferably by the agency of the Governing Board of the Pan-American Union, which is already available as the nucleus of such a conference. The diplomatic representatives of all neutral states now accredited to Washington might be empowered to sit as delegates to the conference while the war lasts.

Constituent members of the Pan-American Union have already suggested a development of the possibilities of that organization, and a financial conference of the Union was convened on May 24. A committee of its Governing Board has received from Venezuela a proposition for the convocation of a conference of all neutral states to discuss the rights and duties of non-belligerents in time of war; and another proposition, emanating from Honduras, for the establishment of a permanent international commission of inquiry. Other neutral states are therefore eager to facilitate the solution of international controversies by other means than those which war offers. The United States should not withhold its powerful co-operation in these policies.

If historical precedents are desired for the establishment of a conference of neutrals in time of war, precedents are not lacking. In 1780, during the war of the American Revolution, the Russian Government led in the formation of a League of Neutrals for the purpose of defining and defending neutral rights to freedom of commerce and navigation. Sweden, Denmark, the Netherlands and Portugal joined Russia in this League, to which, later, Austria, Prussia and the two Sicilies adhered, and also the belligerents opposed to England. The principles avowed by this League paved the way for the Declaration of Paris in 1856. One of the objects of the original League of Neutrals was also the hope of influencing the belligerents in determining peace. At the same time, Russia, Denmark and Sweden formed what was known as the League of Armed Neutrality, whose purpose was to keep all warfare out of the Baltic Sea.

In 1794 Denmark and Sweden renewed the latter league, as against English and French belligerents. Russia joined this second league in 1800, but it was dissolved by external force in the ensuing year.

A successor of these Baltic Leagues of Neutrals appeared in the Conference of Sweden, Norway and Denmark, at Malmö, December 19, 1914, a conference which united the executive chiefs of those three nations in defense of their common interests in freedom of commerce.

A Conference of Neutrals will necessarily emphasize a principle, which is too often denied or ignored by angry belligerents, that the welfare of each is the concern of all. The belligerent parties suddenly build up two great organizations for wrecking civilization. It is all the more incumbent upon the non-belligerents to create, at once and in contrast, an organization to preserve the social and political forces that are endangered, to insist upon the fundamental supremacy of law and order, and to bear witness for sanity and human sympathy among men who are tempted to forget both.

We may surely hope that the United States will exemplify such principles, even under the stress of any provocation, but how much more effective will the lesson be, if it proceeds from the agreement of a great family of nations, representing the non-belligerents of every continent!

Recently, in the strain of our most delicate and dangerous relations with our Mexican neighbor, the Niagara Conference proved the value of a community of interests among representative nations of the two Americas. The situation in Europe may not yet be ripe for mediation, but a Conference of Neutrals can hope to create opportunities beyond the reach of any one nation and it can speak in behalf of the common interest with an authority that no single nation can assume.

Nor should the possible evolution and expansion of such a Conference of Neutrals be overlooked.

As soon as a congress of belligerents meets to discuss terms of peace, a congress of the involuntary participants in the war will be needed. The whole enlightened world is perforce involved in this war and concerned in its outcome. Therefore, a Conference of Neutrals that has been studying all the problems underlying the struggle would be precisely the international council that could be

profitably transformed into a suitably authorized congress of the non-belligerent powers, which would be as intelligently resolved to remove the causes of war as the belligerents could be.

It ought to be the especial service of such a Conference of Neutrals and Congress of Non-Belligerents to prepare themselves and their belligerent neighbors for the final introduction of the Third Hague Conference. It ought to be their preliminary agreement which would eventually procure for the Hague Conferences a permanent organization with meetings at regular intervals, and the final development of the world-court. Thus would be taken the next necessary step toward that organization of the world which public opinion should be educated to demand and support.

For these reasons all friends of that international justice which alone can insure international peace should unite in calling for the speedy convocation of a conference of neutral states. A statement, embodying ideas similar to those contained in the subjoined resolution, should be signed by individuals, or by companies and associations of citizens, who believe in the wisdom of this policy. Such a statement, thus completed, should be forwarded to the Department of State at Washington, and to the members of Congress in either House, who represent the signers.

We, the undersigned, citizens of the state of , believing that the neutral nations should have the requisite organization for bringing their united counsel and influence to bear upon existing international relations, respectfully submit that the government of the United States should take immediate steps for assembling a conference of neutral states to consider and act upon their common interests in international affairs.

THE INTERESTS OF NEUTRALS

(From the Instructions to the American Delegates to the Second Hague Conference, issued by Secretary of State Root, May 31, 1907.)

The clause of the program (of the Second Hague Conference) relating to the rights and duties of neutrals is of very great importance and in itself would furnish matter for useful discussion sufficient to occupy the time and justify the labors of the Conference.

The various subjects which the Conference may be called upon to consider are likely to bring out proposals which should be considered in their relation to each other, as standing in the following order of substantial importance:

(1) Provisions tending to prevent disagreements between nations.

(2) Provisions tending to dispose of disagreements without war.

(3) Provisions tending to preserve the rights and interests of neutrals.

(4) Provisions tending to mitigate the evils of war to belligerents.

The relative importance of these classes of provisions should always be kept in mind. No rules should be adopted for the purpose of mitigating the evils of war to belligerents which will tend strongly to destroy the rights of neutrals, and no rules should be adopted regarding the rights of neutrals which will tend strongly to bring about war. It is of the highest importance that not only the rights, but the duties of neutrals shall be most clearly and distinctly defined and understood, not only because the evils which belligerent nations bring upon themselves ought not to be allowed to spread to their peaceful neighbors and inflict unnecessary injury upon the rest of mankind, but because misunderstandings regarding the rights and duties of neutrals constantly tend to involve them in controversy with one or the other belligerent.

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World Peace Foundation

Pamphlet Series

OFFICIAL DOCUMENTS
CONCERNING
NEUTRAL AND BELLIGERENT RIGHTS
ISSUED SINCE AUGUST 4, 1914

NEUTRALITY PROCLAIMED AND EXPLAINED

APPENDIX: DECLARATION OF LONDON

PUBLISHED BIMONTHLY BY THE
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June, 1915
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Entered as second-class matter January 15, 1913, at the post-office at Boston, Mass., under the Act of August 24, 1912

In this pamphlet the World Peace Foundation begins the publication of all the official documents that relate directly to recent or current controversies concerning neutral and belligerent rights between the United States, Germany, and Great Britain. These documents are reproduced from the official texts, unless otherwise noted. Official American translations of German texts have been used. The Foundation intends to continue the reprinting of these documents in its Pamphlet Series until the war is over or the controversies end. With due regard to certain obvious classifications by subject, the documents will be arranged in chronological order.

To these publications the Foundation invites the attention of teachers and students of international law and relations, political science and economics, as well as of publicists and men of affairs who need to have at hand precise information concerning these disputes over the rights of commerce and navigation of the high seas in time of war.

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OFFICIAL DOCUMENTS CONCERNING NEUTRAL AND BELLIGERENT RIGHTS ISSUED SINCE AUGUST 4, 1914

I. Proclamations of Neutrality by the United States.

1. Austria-Hungary and Servia, Germany and Russia, and Germany and France.[1]

By the President of the United States of America.

A Proclamation.

WHEREAS a state of war unhappily exists between Austria-Hungary and Servia and between Germany and Russia and between Germany and France; and whereas the United States is on terms of friendship and amity

[1] Additional proclamations identical in character were issued as follows:
For the war between Germany and Great Britain on August 5, 1914 [No. 1272];
For the state of war between Austria-Hungary and Russia on August 7, 1914 [No. 1273];
For the state of war between Great Britain and Austria-Hungary, August 13, 1914 [No. 1274];
For the state of war between France and Austria-Hungary, August 14, 1914 [No. 1275];
As a result of the United States being "in fact aware of the existence of a state of war between Belgium and Germany," August 18, 1914 [No. 1276];
For the state of war between Japan and Germany, August 24, 1914 [No. 1277];
For the state of war between Japan and Austria-Hungary, August 27, 1914 [No. 1278];
For the state of war between Belgium and Austria-Hungary, September 1, 1914 [No. 1280];
For the state of war between Great Britain and Turkey, November 6, 1914 [No. 1286];
For the state of war between Italy and Austria-Hungary, May 24, 1915.
The following declarations of war have called forth no American proclamations of neutrality:
Montenegro against Austria-Hungary, August 7, 1914;
Montenegro against Germany, August 9, 1914;
Servia against Germany, August 9, 1914;
Russia against Turkey, November 3, 1914;
France against Turkey, November 5, 1914;
San Marino declared itself to be in a state of war about June 1, 1915.

with the contending powers, and with the persons inhabiting their several dominions;

AND WHEREAS there are citizens of the United States residing within the territories or dominions of each of the said belligerents, and carrying on commerce, trade, or other business or pursuits therein;

AND WHEREAS there are subjects of each of the said belligerents residing within the territory or jurisdiction of the United States, and carrying on commerce, trade, or other business or pursuits therein;

AND WHEREAS the laws and treaties of the United States, without interfering with the free expression of opinion and sympathy, or with the commercial manufacture or sale of arms or munitions of war, nevertheless impose upon all persons who may be within their territory and jurisdiction the duty of an impartial neutrality during the existence of the contest;

AND WHEREAS it is the duty of a neutral government not to permit or suffer the making of its waters subservient to the purposes of war;

NOW, THEREFORE, I, WOODROW WILSON, President of the United States of America, in order to preserve the neutrality of the United States and of its citizens and of persons within its territory and jurisdiction, and to enforce its laws and treaties, and in order that all persons, being warned of the general tenor of the laws and treaties of the United States in this behalf, and of the law of nations, may thus be prevented from any violation of the same, do hereby declare and proclaim that by certain provisions of the act approved on the 4th day of March, A.D. 1909, commonly known as the "Penal Code of the United States," the following acts are forbidden to be done, under severe penalties, within the territory and jurisdiction of the United States, to wit:

1. Accepting and exercising a commission to serve either of the said belligerents by land or by sea against the other belligerent.

2. Enlisting or entering into the service of either of the said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.

3. Hiring or retaining another person to enlist or enter himself in the service of either of the said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.

4. Hiring another person to go beyond the limits or jurisdiction of the United States with intent to be enlisted as aforesaid.

5. Hiring another person to go beyond the limits of the United States with intent to be entered into service as aforesaid.

6. Retaining another person to go beyond the limits of the United States with intent to be enlisted as aforesaid.

7. Retaining another person to go beyond the limits of the United States with intent to be entered into service as aforesaid. (But the said act is not to be construed to extend to a citizen or subject of either belligerent who, being transiently within the United States, shall, on board of any vessel of war, which, at the time of its arrival within the United States, was fitted and equipped as such vessel of war, enlist or enter himself or hire or retain another subject or citizen of the same belligerent, who is transiently within the United States, to enlist or enter himself to serve such belligerent on board such vessel of war, if the United States shall then be at peace with such belligerent.)

8. Fitting out and arming, or attempting to fit out and arm, or procuring to be fitted out and armed, or knowingly being concerned in the furnishing, fitting out, or arming of any ship or vessel with intent that such ship or vessel shall be employed in the service of either of the said belligerents.

9. Issuing or delivering a commission within the territory or jurisdiction of the United States for any ship or vessel to the intent that she may be employed as aforesaid.

10. Increasing or augmenting, or procuring to be increased or augmented, or knowingly being concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel, which at the time of her arrival within the United States was a ship of war, cruiser, or armed vessel in the service of either of the said belligerents, or belonging to the subjects of either, by adding to the number of guns of such vessels, or by changing those on board of her for guns of a larger caliber, or by the addition thereto of any equipment solely applicable to war.

11. Beginning or setting on foot or providing or preparing the means for any military expedition or enterprise to be carried on from the territory or jurisdiction of the United States against the territories or dominions of either of the said belligerents.

And I do hereby further declare and proclaim that any frequenting and use of the waters within the territorial jurisdiction of the United States by the armed vessels of a belligerent, whether public ships or privateers, for the purpose of preparing for hostile operations, or as posts of observation upon the ships of war or privateers or merchant vessels of a belligerent lying within or being about to enter the jurisdiction of the United States, must be regarded as unfriendly and offensive, and in violation of that neutrality which it is the determination of this government to observe; and to the end that the hazard and inconvenience of such apprehended practices may be avoided, I further proclaim and declare that from and after the fifth day of August instant, and during the continuance of the present hostilities

between Austria-Hungary and Servia, and Germany and Russia and Germany and France, no ship of war or privateer of any belligerent shall be permitted to make use of any port, harbor, roadstead, or waters subject to the jurisdiction of the United States from which a vessel from an opposing belligerent (whether the same shall be a ship of war, a privateer, or a merchant ship) shall have previously departed, until after the expiration of at least twenty-four hours from the departure of such last-mentioned vessel beyond the jurisdiction of the United States.

If any ship of war or privateer of a belligerent shall, after the time this notification takes effect, enter any port, harbor, roadstead, or waters of the United States, such vessel shall be required to depart and to put to sea within twenty-four hours after her entrance into such port, harbor, roadstead, or waters, except in case of stress of weather or of her requiring provisions or things necessary for the subsistence of her crew, or for repairs; in any of which cases the authorities of the port, or of the nearest port (as the case may be), shall require her to put to sea as soon as possible after the expiration of such period of twenty-four hours, without permitting her to take in supplies beyond what may be necessary for her immediate use; and no such vessel which may have been permitted to remain within the waters of the United States for the purpose of repair shall continue within such port, harbor, roadstead, or waters for a longer period than twenty-four hours after her necessary repairs shall have been completed, unless within such twenty-four hours a vessel, whether ship of war, privateer, or merchant ship of an opposing belligerent, shall have departed therefrom, in which case the time limited for the departure of such ship of war or privateer shall be extended so far as may be necessary to secure an interval of not less than twenty-four hours between such departure and that of any ship of war, privateer, or merchant ship of an opposing belligerent which may have previously quit the same port, harbor, roadstead, or waters.

No ship of war or privateer of a belligerent shall be detained in any port, harbor, roadstead, or waters of the United States more than twenty-four hours, by reason of the successive departures from such port, harbor, roadstead, or waters of more than one vessel of an opposing belligerent. But if there be several vessels of opposing belligerents in the same port, harbor, roadstead, or waters, the order of their departure therefrom shall be so arranged as to afford the opportunity of leaving alternately to the vessels of the opposing belligerents, and to cause the least detention consistent with the objects of this proclamation.

No ship of war or privateer of a belligerent shall be permitted, while in any port, harbor, roadstead, or waters within the jurisdiction of the

United States, to take in any supplies except provisions and such other things as may be requisite for the subsistence of her crew, and except so much coal only as may be sufficient to carry such vessel, if without any sail power, to the nearest port of her own country; or in case the vessel is rigged to go under sail, and may also be propelled by steam power, then with half the quantity of coal which she would be entitled to receive, if dependent upon steam alone, and no coal shall be again supplied to any such ship of war or privateer in the same or any other port, harbor, roadstead, or waters of the United States, without special permission, until after the expiration of three months from the time when such coal may have been last supplied to her within the waters of the United States, unless such ship of war or privateer shall, since last thus supplied, have entered a port of the government to which she belongs.

And I do further declare and proclaim that the statutes and the treaties of the United States and the law of nations alike require that no person, within the territory and jurisdiction of the United States, shall take part, directly or indirectly, in the said wars, but shall remain at peace with all of the said belligerents, and shall maintain a strict and impartial neutrality.

And I do hereby enjoin all citizens of the United States, and all persons residing or being within the territory or jurisdiction of the United States, to observe the laws thereof, and to commit no act contrary to the provisions of the said statutes or treaties or in violation of the law of nations in that behalf.

And I do hereby warn all citizens of the United States, and all persons residing or being within its territory or jurisdiction that, while the free and full expression of sympathies in public and private is not restricted by the laws of the United States, military forces in aid of a belligerent cannot lawfully be originated or organized within its jurisdiction; and that, while all persons may lawfully and without restriction by reason of the aforesaid state of war manufacture and sell within the United States arms and munitions of war, and other articles ordinarily known as "contraband of war," yet they cannot carry such articles upon the high seas for the use or service of a belligerent, nor can they transport soldiers and officers of a belligerent, or attempt to break any blockade which may be lawfully established and maintained during the said war without incurring the risk of hostile capture and the penalties denounced by the law of nations in that behalf.

And I do hereby give notice that all citizens of the United States and others who may claim the protection of this government, who may misconduct themselves in the premises, will do so at their peril, and that they

can in no wise obtain any protection from the government of the United States against the consequences of their misconduct.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

[SEAL.] Done at the city of Washington this fourth day of August in the year of our Lord one thousand nine hundred and fourteen and of the independence of the United States of America the one hundred and thirty-ninth.

WOODROW WILSON

By the President:

WILLIAM JENNINGS BRYAN,
Secretary of State.

[Proclamation No. 1271.]

2. Panama Canal Zone.

By the President of the United States of America,

A Proclamation.

WHEREAS, the United States is neutral in the present war and WHEREAS the United States exercises sovereignty in the land and waters of the Canal Zone and is authorized by its treaty with Panama of February twenty-six, nineteen hundred and four, to maintain neutrality in the cities of Panama and Colon, and the harbors adjacent to the said cities:

NOW, THEREFORE, I, WOODROW WILSON, President of the United States of America, do hereby declare and proclaim the following Rules and Regulations Governing the Use of the Panama Canal by Vessels of Belligerents and the Maintenance of Neutrality by the United States in the Canal Zone, which are in addition to the general "Rules and Regulations for the Operation and Navigation of the Panama Canal and Approaches Thereto, including all Waters under its jurisdiction" put into force by Executive Order of July 9, 1914, and I do bring to the attention of all concerned the Protocol of an Agreement between the United States and the Republic of Panama, signed at Washington, October 10, 1914, which protocol is hereunto annexed.

Rule 1. A vessel of war, for the purposes of these rules, is defined as follows: a public armed vessel, under the command of an officer duly

commissioned by the government, whose name appears on the list of officers of the military fleet, and the crew of which are under regular naval discipline, which vessel is qualified by its armament and the character of its personnel to take offensive action against the public or private ships of the enemy.

Rule 2. In order to maintain both the neutrality of the Canal and that of the United States owning and operating it as a government enterprise, the same treatment, except as hereinafter noted, as that given to vessels of war of the belligerents shall be given to every vessel, belligerent or neutral, whether armed or not, that does not fall under the definition of Rule 1, which vessel is employed by a belligerent Power as a transport or fleet auxiliary or in any other way for the direct purpose of prosecuting or aiding hostilities, whether by land or sea; but such treatment shall not be given to a vessel fitted up and used exclusively as a hospital ship.

Rule 3. A vessel of war of a belligerent, or a vessel falling under Rule 2 which is commanded by an officer of the military fleet, shall only be permitted to pass through the Canal after her commanding officer has given written assurance to the Authorities of the Panama Canal that the Rules and Regulations will be faithfully observed.

The authorities of the Panama Canal shall take such steps as may be requisite to insure the observance of the Rules and Regulations by vessels falling under Rule 2 which are not commanded by an officer of the military fleet.

Rule 4. Vessels of war of a belligerent and vessels falling under Rule 2 shall not revictual nor take any stores in the Canal except so far as may be strictly necessary; and the transit of such vessels through the Canal shall be effected with the least possible delay in accordance with the Canal Regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same Rules as vessels of war of the belligerents.

Rule 5. No vessel of war of a belligerent or vessel falling under Rule 2 shall receive fuel or lubricants while within the territorial waters of the Canal Zone, except on the written authorization of the Canal Authorities, specifying the amount of fuel and lubricants which may be received.

Rule 6. Before issuing any authorization for the receipt of fuel and lubricants by any vessel of war of a belligerent or vessel falling under Rule 2, the Canal Authorities shall obtain a written declaration duly signed by the officer commanding such vessel, stating the amount of fuel and lubricants already on board.

Rule 7. Supplies will not be furnished by the Government of the United States, either directly, or indirectly through the intervention of a corporation, or otherwise, to vessels of war of a belligerent or vessels falling under Rule 2. If furnished by private contractors, or if taken from vessels under the control of a belligerent, fuel and lubricants may be taken on board vessels of war of a belligerent or vessels falling under Rule 2 only upon permission of the Canal Authorities, and then only in such amounts as will enable them, with the fuel and lubricants already on board, to reach the nearest accessible port, not an enemy port, at which they can obtain supplies necessary for the continuation of the voyage. The amounts of fuel and lubricants so received will be deducted from the amounts otherwise allowed in the ports under the jurisdiction of the United States during any time within a period of three months thereafter. Provisions furnished by contractors may be supplied only upon permission of the Canal Authorities, and then only in amount sufficient to bring up their supplies to the peace standard.

Rule 8. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the Canal, except in case of necessity due to accidental hindrance of the transit. In such cases the Canal Authorities shall be the judge of the necessity, and the transit shall be resumed with all possible dispatch.

Rule 9. Vessels of war of a belligerent and vessels falling under Rule 2 shall not remain in the territorial waters of the Canal Zone under the jurisdiction of the United States longer than twenty-four hours at any one time, except in case of distress; and in such case, shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within twenty-four hours from the departure of a vessel of an opposing belligerent.

The twenty-four hours of this rule shall be construed to be twenty-four hours in addition to the time necessarily occupied in passing through the Canal.

Rule 10. In the exercise of the exclusive right of the United States to provide for the regulation and management of the Canal, and in order to insure that the Canal shall be kept free and open on terms of entire equality to vessels of commerce and of war, there shall not be, except by special arrangement, at any one time a greater number of vessels of war of any one nation, including those of the allies of a belligerent nation, than three in either terminal port and its adjacent terminal waters, or than three in transit through the Canal; nor shall the total number of such vessels, at any one time, exceed six in all the territorial waters of the Canal Zone under the jurisdiction of the United States.

Rule 11. When vessels of war or vessels falling under Rule 2, belonging to or employed by opposing belligerents, are present simultaneously in the waters of the Canal Zone, a period of not less than twenty-four hours must elapse between the departure of the vessel belonging to or employed by one belligerent and the departure of the vessel belonging to or employed by his adversary.

The order of departure is determined by order of arrival, unless the vessel which arrived first is so circumstanced that an extension of her stay is permissible.

A vessel of war of a belligerent or vessel falling under Rule 2 may not leave the waters of the Canal Zone until twenty-four hours after the departure of a private vessel flying the flag of the adversary.

Rule 12. A vessel of war of a belligerent or vessel falling under Rule 2 which has left the waters of the Canal Zone, whether she has passed through the Canal or not, shall, if she returns within a period of one week after her departure, lose all privileges of precedence in departure from the Canal Zone, or in passage through the Canal, over vessels flying the flag of her adversaries which may enter those waters after her return and before the expiration of one week subsequent to her previous departure. In any such case the time of departure of a vessel which has so returned shall be fixed by the Canal Authorities, who may in so doing consider the wishes of the commander of a public vessel or of the master of a private vessel of the adversary of the returned vessel, which adversary's vessel is then present within the waters of the Canal Zone.

Rule 13. The repair facilities and docks belonging to the United States and administered by the Canal Authorities shall not be used by a vessel of war of a belligerent, or vessels falling under Rule 2, except when necessary in case of actual distress, and then only upon the order of the Canal Authorities, and only to the degree necessary to render the vessel seaworthy. Any work authorized shall be done with the least possible delay.

Rule 14. The radio installation of any vessel of a belligerent Power, public or private, or of any vessel falling under Rule 2, shall be used only in connection with Canal business to the exclusion of all other business while within the waters of the Canal Zone, including the waters of Colon and Panama Harbors.

Rule 15. Air craft of a belligerent Power, public or private, are forbidden to descend or arise within the jurisdiction of the United States at the Canal Zone, or to pass through the air spaces above the lands and waters within said jurisdiction.

Rule 16. For the purpose of these rules the Canal Zone includes the cities of Panama and Colon and the harbors adjacent to the said cities.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

[SEAL.] Done at the city of Washington this thirteenth day of November in the year of our Lord one thousand nine hundred and fourteen and of the independence of the United States the one hundred and thirty-ninth.

WOODROW WILSON

By the President:
W. J. BRYAN,
Secretary of State.

[No. 1287.]

a. PROTOCOL OF AN AGREEMENT BETWEEN THE UNITED STATES AND PANAMA.

Protocol of an agreement concluded between Honorable Robert Lansing, Acting Secretary of State of the United States, and Don Eusebio A. Morales, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, signed the tenth day of October, 1914.

The undersigned, the Acting Secretary of State of the United States of America and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, in view of the close association of the interests of their respective Governments on the Isthmus of Panama, and to the end that these interests may be conserved and that, when a state of war exists, the neutral obligations of both Governments as neutrals may be maintained, after having conferred on the subject and being duly empowered by their respective Governments, have agreed:

That hospitality extended in the waters of the Republic of Panama to a belligerent vessel of war or a vessel belligerent or neutral, whether armed or not, which is employed by a belligerent power as a transport or fleet auxiliary or in any other way for the direct purpose of prosecuting or aiding hostilities, whether by land or sea, shall serve to deprive such vessel of like hospitality in the Panama Canal Zone for a period of three months, and *vice versa.*

In testimony whereof, the undersigned have signed and sealed the present Protocol in the city of Washington, this tenth day of October, 1914.

ROBERT LANSING [L. S.]
EUSEBIO A. MORALES [L. S.]

II. American Neutrality. Correspondence between the Secretary of State and Chairman, Committee on Foreign Relations, relating to Certain Complaints made that the American Government has shown Partiality to Certain Belligerents during the present European war.[1]

1. Letter of Inquiry by Senator Stone.

JANUARY 8, 1915.

Dear Mr. Secretary: As you are aware, frequent complaints or charges are made in one form or another through the press that this Government has shown partiality to Great Britain, France, and Russia as against Germany and Austria during the present war between those powers; in addition to which I have received numerous letters to the same effect from sympathizers with Germany and Austria. The various grounds of these complaints may be summarized and stated in the following form:

1. Freedom of communication by submarine cables, but censorship of wireless messages.
2. Submission to censorship of mails and in some cases to the repeated destruction of American letters found on neutral vessels.
3. The search of American vessels for German and Austrian subjects—
   (*a*) On the high seas.
   (*b*) In territorial waters of a belligerent.
4. Submission without protest to English violations of the rules regarding absolute and conditional contraband, as laid down—
   (*a*) In the Hague Conventions.
   (*b*) In international law.
   (*c*) In the Declaration of London.
5. Submission without protest to inclusion of copper in the list of absolute contraband.
6. Submission without protest to interference with American trade to neutral countries—
   (*a*) In conditional contraband.
   (*b*) In absolute contraband.

[1] Senate Document, No. 716, 63d Congress, 3d Session.

7. Submission without protest to interruption of trade in conditional contraband consigned to private persons in Germany and Austria, thereby supporting the policy of Great Britain to cut off all supplies from Germany and Austria.
8. Submission to British interruption of trade in petroleum, rubber, leather, wool, etc.
9. No interference with the sale to Great Britain and her allies of arms, ammunition, horses, uniforms, and other munitions of war, although such sales prolong the war.
10. No suppression of sale of dumdum bullets to Great Britain.
11. British warships are permitted to lie off American ports and intercept neutral vessels.
12. Submission without protest to disregard by Great Britain and her allies of—
    (*a*) American naturalization certificates.
    (*b*) American passports.
13. Change of policy in regard to loans to belligerents:
    (*a*) General loans.
    (*b*) Credit loans.
14. Submission to arrest of native-born Americans on neutral vessels and in British ports, and their imprisonment.
15. Indifference to confinement of noncombatants in detention camps in England and France.
16. Failure to prevent transshipment of British troops and war material across the territory of the United States.
17. Treatment and final internment of German steamship *Geier* and the collier *Locksun* at Honolulu.
18. Unfairness to Germany in rules relative to coaling of warships in Panama Canal Zone.
19. Failure to protest against the modifications of the Declaration of London by the British Government.
20. General unfriendly attitude of Government toward Germany and Austria.

If you deem it not incompatible with the public interest I would be obliged if you would furnish me with whatever information your department may have touching these various points of complaint, or request the counselor of the State Department to send me the information, with any suggestions you or he may deem advisable to make with respect to either the legal or political aspects of the subject. So far as informed I see no reason why all

the matter I am requesting to be furnished should not be made public, to the end that the true situation may be known and misapprehensions quieted.

I have the honor to be,

Yours, sincerely,

WM. J. STONE.

Hon. WILLIAM JENNINGS BRYAN,
Secretary of State.

2. Reply from Secretary Bryan.

DEPARTMENT OF STATE,
WASHINGTON, January 20, 1915.

Dear Mr. Stone: I have received your letter of the 8th instant, referring to frequent complaints or charges made in one form or another through the press that this Government has shown partiality to Great Britain, France, and Russia against Germany and Austria during the present war, and stating that you have received numerous letters to the same effect from sympathizers with the latter powers. You summarize the various grounds of these complaints and ask that you be furnished with whatever information the department may have touching these points of complaint, in order that you may be informed as to what the true situation is in regard to these matters.

In order that you may have such information as the department has on the subjects referred to in your letter, I will take them up seriatim.

(1) *Freedom of communication by submarine cables versus censored communication by wireless.*

The reason that wireless messages and cable messages require different treatment by a neutral Government is as follows:

Communications by wireless cannot be interrupted by a belligerent. With a submarine cable it is otherwise. The possibility of cutting the cable exists, and if a belligerent possesses naval superiority the cable is cut, as was the German cable near the Azores by one of Germany's enemies and as was the British cable near Fanning Island by a German naval force. Since a cable is subject to hostile attack, the responsibility falls upon the belligerent and not upon the neutral to prevent cable communication.

A more important reason, however, at least from the point of view of a neutral Government, is that messages sent out from a wireless station in neutral territory may be received by belligerent warships on the high seas.

appear to bear harshly upon neutrals at the present time are analogous to or outgrowths from policies adopted by the United States when it was a belligerent. The Government therefore cannot consistently protest against the application of rules which it has followed in the past, unless they have not been practiced as heretofore.

(5) *Acquiescence without protest to the inclusion of copper and other articles in the British lists of absolute contraband.*

The United States has now under consideration the question of the right of a belligerent to include "copper unwrought" in its list of absolute contraband instead of in its list of conditional contraband. As the Government of the United States has in the past placed "all articles from which ammunition is manufactured" in its contraband list, and has declared copper to be among such materials, it necessarily finds some embarrassment in dealing with the subject.

Moreover, there is no instance of the United States acquiescing in Great Britain's seizure of copper shipments. In every case, in which it has been done, vigorous representations have been made to the British Government, and the representatives of the United States have pressed for the release of the shipments.

(6) *Submission without protest to interference with American trade to neutral countries in conditional and absolute contraband.*

The fact that the commerce of the United States is interrupted by Great Britain is consequent upon the superiority of her navy on the high seas. History shows that whenever a country has possessed that superiority our trade has been interrupted and that few articles essential to the prosecution of the war have been allowed to reach its enemy from this country. The department's recent note to the British Government, which has been made public, in regard to detentions and seizures of American vessels and cargoes, is a complete answer to this complaint.

Certain other complaints appear aimed at the loss of profit in trade, which must include at least in part trade in contraband with Germany; while other complaints demand the prohibition of trade in contraband, which appear to refer to trade with the allies.

(7) *Submission without protest to interruption of trade in conditional contraband consigned to private persons in Germany and Austria, thereby supporting the policy of Great Britain to cut off all supplies from Germany and Austria.*

As no American vessel so far as known has attempted to carry conditional contraband to Germany or Austria-Hungary, no ground of complaint has

arisen out of the seizure or condemnation by Great Britain of an American vessel with a belligerent destination. Until a case arises and the Government has taken action upon it criticism is premature and unwarranted. The United States in its note of December 26 to the British Government strongly contended for the principle of freedom of trade in articles of conditional contraband not destined to the belligerent's forces.

(8) *Submission to British interference with trade in petroleum, rubber, leather, wool, etc.*

Petrol and other petroleum products have been proclaimed by Great Britain as contraband of war. In view of the absolute necessity of such products to the use of submarines, aeroplanes, and motors, the United States Government has not yet reached the conclusion that they are improperly included in a list of contraband. Military operations to-day are largely a question of motive power through mechanical devices. It is therefore difficult to argue successfully against the inclusion of petroleum among the articles of contraband. As to the detention of cargoes of petroleum going to neutral countries, this Government has, thus far successfully, obtained the release in every case of detention or seizure which has been brought to its attention.

Great Britain and France have placed rubber on the absolute contraband list and leather on the conditional contraband list. Rubber is extensively used in the manufacture and operation of motors and, like petrol, is regarded by some authorities as essential to motive power to-day. Leather is even more widely used in cavalry and infantry equipment. It is understood that both rubber and leather, together with wool, have been embargoed by most of the belligerent countries. It will be recalled that the United States has in the past exercised the right of embargo upon exports of any commodity which might aid the enemy's cause.

(9) *The United States has not interfered with the sale to Great Britain and her allies of arms, ammunition, horses, uniforms, and other munitions of war, although such sales prolong the conflict.*

There is no power in the Executive to prevent the sale of ammunition to the belligerents.

The duty of a neutral to restrict trade in munitions of war has never been imposed by international law or by municipal statute. It has never been the policy of this Government to prevent the shipment of arms or ammunition into belligerent territory, except in the case of neighboring American Republics, and then only when civil strife prevailed. Even to this extent the belligerents in the present conflict, when they were neutrals, have never,

so far as the records disclose, limited the sale of munitions of war. It is only necessary to point to the enormous quantities of arms and ammunition furnished by manufacturers in Germany to the belligerents in the Russo-Japanese war and in the recent Balkan wars to establish the general recognition of the propriety of the trade by a neutral nation.

It may be added that on the 15th of December last the German ambassador, by direction of his Government, presented a copy of a memorandum of the Imperial German Government which, among other things, set forth the attitude of that Government toward traffic in contraband of war by citizens of neutral countries. The Imperial Government stated that "under the general principles of international law, no exception can be taken to neutral States letting war material go to Germany's enemies from or through neutral territory," and that the adversaries of Germany in the present war are, in the opinion of the Imperial Government, authorized to "draw on the United States contraband of war and especially arms worth billions of marks." These principles, as the ambassador stated, have been accepted by the United States Government in the statement issued by the Department of State on October 15 last, entitled "Neutrality and trade in contraband." Acting in conformity with the propositions there set forth, the United States has itself taken no part in contraband traffic, and has, so far as possible, lent its influence toward equal treatment for all belligerents in the matter of purchasing arms and ammunition of private persons in the United States.

(10) *The United States has not suppressed the sale of dumdum bullets to Great Britain.*

On December 5 last the German ambassador addressed a note to the department, stating that the British Government had ordered from the Winchester Repeating Arms Co. 20,000 "riot guns," model 1897, and 50,000,000 "buckshot cartridges" for use in such guns. The department replied that it saw a published statement of the Winchester Co., the correctness of which the company has confirmed to the department by telegraph. In this statement the company categorically denies that it has received an order for such guns and cartridges from or made any sales of such material to the British Government, or to any other Government engaged in the present war. The ambassador further called attention to "information, the accuracy of which is not to be doubted," that 8,000,000 cartridges fitted with "mushroom bullets" had been delivered since October of this year by the Union Metallic Cartridge Co. for the armament of the English army. In reply the department referred to the letter of De-

cember 10, 1914, of the Remington Arms-Union Metallic Cartridge Co., of New York, to the ambassador, called forth by certain newspaper reports of statements alleged to have been made by the ambassador in regard to the sales by that company of soft-nosed bullets.

From this letter, a copy of which was sent to the department by the company, it appears that instead of 8,000,000 cartridges having been sold, only a little over 117,000 were manufactured and 109,000 were sold. The letter further asserts that these cartridges were made to supply a demand for a better sporting cartridge with a soft-nosed bullet than had been manufactured theretofore, and that such cartridges cannot be used in the military rifles of any foreign powers. The company adds that its statements can be substantiated and that it is ready to give the ambassador any evidence that he may require on these points. The department further stated that it was also in receipt from the company of a complete detailed list of the persons to whom these cartridges were sold, and that from this list it appeared that the cartridges were sold to firms in lots of 20 to 2,000 and one lot each of 3,000, 4,000, and 5,000. Of these only 960 cartridges went to British North America and 100 to British East Africa.

The department added that, if the ambassador could furnish evidence that this or any other company is manufacturing and selling for the use of the contending armies in Europe cartridges whose use would contravene The Hague conventions, the department would be glad to be furnished with this evidence, and that the President would, in case any American company is shown to be engaged in this traffic, use his influence to prevent so far as possible sales of such ammunition to the powers engaged in the European war, without regard to whether it is the duty of this Government, upon legal or conventional grounds, to take such action.

The substance of both the ambassador's note and the department's reply have appeared in the press.

The department has received no other complaints of alleged sales of dumdum bullets by American citizens to belligerent Governments.

(11) *British warships are permitted to lie off American ports and intercept neutral vessels.*

The complaint is unjustified from the fact that representations were made to the British Government that the presence of war vessels in the vicinity of New York Harbor was offensive to this Government and a similar complaint was made to the Japanese Government as to one of its cruisers in the vicinity of the port of Honolulu. In both cases the warships were withdrawn.

It will be recalled that in 1863 the department took the position that captures made by its vessels after hovering about neutral ports would not be regarded as valid. In the Franco-Prussian War President Grant issued a proclamation warning belligerent warships against hovering in the vicinity of American ports for purposes of observation or hostile acts.[1] The same policy has been maintained in the present war, and in all of the recent proclamations of neutrality the President states that such practice by belligerent warships is "unfriendly and offensive."

(12) *Great Britain and her allies are allowed without protest to disregard American citizenship papers and passports.*

American citizenship papers have been disregarded in a comparatively few instances by Great Britain, but the same is true of all the belligerents. Bearers of American passports have been arrested in all the countries at war. In every case of apparent illegal arrest the United States Government has entered vigorous protests with request for release. The department does not know of any cases, except one or two which are still under investigation, in which naturalized Germans have not been released upon representations by this Government. There have, however, come to the department's notice authentic cases in which American passports have been fraudulently obtained and used by certain German subjects.

The Department of Justice has recently apprehended at least four persons of German nationality who, it is alleged, obtained American passports under pretense of being American citizens and for the purpose of returning to Germany without molestation by her enemies during the voyage. There are indications that a systematic plan had been devised to obtain American passports through fraud for the purpose of securing safe passage for German officers and reservists desiring to return to Germany. Such fraudulent use of passports by Germans themselves can have no other effect than to cast suspicion upon American passports in general. New regulations, however, requiring among other things the attaching of a photograph of the bearer to his passport, under the seal of the Department of State, and the vigilance of the Department of Justice, will doubtless prevent any further misuse of American passports.

(13) *Change of policy in regard to loans to belligerents.*

War loans in this country were disapproved because inconsistent with the spirit of neutrality. There is a clearly defined difference between a war loan and the purchase of arms and ammunition. *The policy of dis-*

[1] Proclamation of October 8, 1870, *Messages and Papers of the Presidents*, VI, 4043–4045.

approving of war loans affects all governments alike, so that the disapproval is not an unneutral act. The case is entirely different in the matter of arms and ammunition, because prohibition of export not only might not, but, in this case, would not, operate equally upon the nations at war. Then, too, the reason given for the disapproval of war loans is supported by other considerations which are absent in the case presented by the sale of arms and ammunition. The taking of money out of the United States during such a war as this might seriously embarrass the Government in case it needed to borrow money and it might also seriously impair this Nation's ability to assist the neutral nations which, though not participants in the war, are compelled to bear a heavy burden on account of the war, and, again, a war loan, if offered for popular subscription in the United States, would be taken up chiefly by those who are in sympathy with the belligerent seeking the loan. The result would be that great numbers of the American people might become more earnest partisans, having material interest in the success of the belligerent, whose bonds they hold. These purchases would not be confined to a few, but would spread generally throughout the country, so that the people would be divided into groups of partisans, which would result in intense bitterness and might cause an undesirable, if not a serious, situation. On the other hand, contracts for and sales of contraband are mere matters of trade. The manufacturer, unless peculiarly sentimental, would sell to one belligerent as readily as he would to another. No general spirit of partisanship is aroused—no sympathies excited. The whole transaction is merely a matter of business.

This Government has not been advised that any general loans have been made by foreign governments in this country since the President expressed his wish that loans of this character should not be made.

(14) *Submission to arrest of native-born Americans on neutral vessels and in British ports and their imprisonment.*

The general charge as to the arrest of American-born citizens on board neutral vessels and in British ports, the ignoring of their passports, and their confinement in jails, requires evidence to support it. That there have been cases of injustice of this sort is unquestionably true, but Americans in Germany have suffered in this way as Americans have in Great Britain. This Government has considered that the majority of these cases resulted from overzealousness on the part of subordinate officials in both countries. Every case which has been brought to the attention of the Department of State has been promptly investigated and, if the facts warranted, a demand for release has been made.

(15) *Indifference to confinement of noncombatants in detention camps in England and France.*

As to the detention of noncombatants confined in concentration camps, all the belligerents, with perhaps the exception of Servia and Russia, have made similar complaints and those for whom this Government is acting have asked investigations, which representatives of this Government have made impartially. Their reports have shown that the treatment of prisoners is generally as good as possible under the conditions in all countries, and that there is no more reason to say that they are mistreated in one country than in another country or that this Government has manifested an indifference in the matter. As this department's efforts at investigations seemed to develop bitterness between the countries, the department on November 20 sent a circular instruction to its representatives not to undertake further investigation of concentration camps.

But at the special request of the German Government that Mr. Jackson, former American minister at Bukharest, now attached to the American embassy at Berlin, make an investigation of the prison camps in England, in addition to the investigations already made, the department has consented to dispatch Mr. Jackson on this special mission.[1]

(16) *Failure to prevent transshipment of British troops and war material across the territory of the United States.*

The department has had no specific case of the passage of convoys of troops across American territory brought to its notice. There have been rumors to this effect, but no actual facts have been presented. The transshipment of reservists of all belligerents who have requested the privilege has been permitted on condition that they travel as individuals and not as organized, uniformed, or armed bodies. The German embassy has advised the department that it would not be likely to avail itself of the privilege, but Germany's ally, Austria-Hungary, did so.

Only one case raising the question of the transit of war material owned by a belligerent across United States territory has come to the department's notice. This was a request on the part of the Canadian Government for permission to ship equipment across Alaska to the sea. The request was refused.

[1] Correspondence relative to these investigations is printed in Parliamentary Papers, Miscellaneous, Nos. 7 and 11 (1915), Cd. 7817 and 7861, and in an additional paper, Cd. 7959.

(17) *Treatment and final internment of German steamship "Geier" and the collier "Locksun" at Honolulu.*

The *Geier* entered Honolulu on October 15 in an unseaworthy condition. The commanding officer reported the necessity of extensive repairs which would require an indefinite period for completion. The vessel was allowed the generous period of three weeks to November 7 to make repairs and leave the port, or, failing to do so, to be interned. A longer period would have been contrary to international practice, which does not permit a vessel to remain for a long time in a neutral port for the purpose of repairing a generally run-down condition due to long sea service. Soon after the German cruiser arrived at Honolulu a Japanese cruiser appeared off the port and the commander of the *Geier* chose to intern the vessel rather than to depart from the harbor.

Shortly after the *Geier* entered the port of Honolulu the steamer *Locksun* arrived. It was found that this vessel had delivered coal to the *Geier* en route and had accompanied her toward Hawaii. As she had thus constituted herself a tender or collier to the *Geier* she was accorded the same treatment and interned on November 7.

(18) *Unfairness to Germany in rules relative to coaling of warships in Panama Canal Zone.*

By proclamation of November 13, 1914, certain special restrictions were placed on the coaling of warships or their tenders or colliers in the Canal Zone. These regulations were framed through the collaboration of the State, Navy, and War Departments and without the slightest reference to favoritism to the belligerents. Before these regulations were proclaimed, war vessels could procure coal of the Panama Railway in the zone ports, but no belligerent vessels are known to have done so. Under the proclamation fuel may be taken on by belligerent warships only with the consent of the canal authorities and in such amounts as will enable them to reach the nearest accessible neutral port; and the amount so taken on shall be deducted from the amount procurable in United States ports within three months thereafter. Now, it is charged the United States has shown partiality because Great Britain and not Germany happens to have colonies in the near vicinity where British ships may coal, while Germany has no such coaling facilities. Thus, it is intimated the United States should balance the inequalities of geographical position by refusing to allow any warships of belligerents to coal in the canal until the war is over. As no German warship has sought to obtain coal in the Canal Zone the charge of

discrimination rests upon a possibility which during several months of warfare has failed to materialize.

(19) *Failure to protest against the modifications of the Declaration of London by the British Government.*

The German Foreign Office presented to the diplomats in Berlin a memorandum dated October 10, calling attention to violations of and changes in the Declaration of London by the British Government and inquiring as to the attitude of the United States toward such action on the part of the allies. The substance of the memorandum was forthwith telegraphed to the department on October 22 and was replied to shortly thereafter to the effect that the United States had withdrawn its suggestion, made early in the war, that for the sake of uniformity the Declaration of London should be adopted as a temporary code of naval warfare during the present war, owing to the unwillingness of the belligerents to accept the declaration without changes and modifications, and that thenceforth the United States would insist that the rights of the United States and its citizens in the war should be governed by the existing rules of international law.

As this Government is not now interested in the adoption of the Declaration of London by the belligerents, the modifications by the belligerents in that code of naval warfare are of no concern to it except as they adversely affect the rights of the United States and those of its citizens as defined by international law. In so far as those rights have been infringed the department has made every effort to obtain redress for the losses sustained.

(20) *General unfriendly attitude of Government toward Germany and Austria.*

If any American citizens, partisans of Germany and Austria-Hungary, feel that this administration is acting in a way injurious to the cause of those countries, this feeling results from the fact that on the high seas the German and Austro-Hungarian naval power is thus far inferior to the British. It is the business of a belligerent operating on the high seas, not the duty of a neutral, to prevent contraband from reaching an enemy. Those in this country who sympathize with Germany and Austria-Hungary appear to assume that some obligation rests upon this Government in the performance of its neutral duty to prevent all trade in contraband, and thus to equalize the difference due to the relative naval strength of the belligerents. No such obligation exists; it would be an unneutral act, an act of partiality on the part of this Government to adopt such a policy if the Executive had the power to do so. If Germany and Austria-Hungary

cannot import contraband from this country it is not, because of that fact, the duty of the United States to close its markets to the allies. The markets of this country are open upon equal terms to all the world, to every nation, belligerent or neutral.

The foregoing categorical replies to specific complaints is sufficient answer to the charge of unfriendliness to Germany and Austria-Hungary.

I am, my dear Senator,

Very sincerely, yours,

W. J. BRYAN.

HON. WILLIAM J. STONE,
Chairman Committee on Foreign Relations,
United States Senate, Washington, D.C.

APPENDIX I.

The Declaration of London, 1909.

INTRODUCTION.[1]

The Second Hague Conference in 1907 elaborated and signed a complete "Convention Relative to the Creation of an International Prize Court." The initiative thereto was taken independently by Germany and Great Britain, and their separate propositions were harmonized into a single document. Louis Renault of France served as reporter. Article 7 of the convention provides:

> If a question of law to be decided is covered by a treaty in force between the belligerent captor and a power which is itself or whose subject or citizen is a party to the proceedings, the court is governed by the provisions of the said treaty.
>
> In the absence of such provisions, the court shall apply the rules of international law. If no generally recognized rule exists, the court shall give judgment in accordance with the general principles of justice and equity.
>
> The above provisions apply equally to questions relating to the order and mode of proof. . . .

[1] The principal documents in connection with the International Naval Conference and the Declaration of London are:

British Parliamentary Papers by Command (Cd.): Miscellaneous, No. 4 (1909), Correspondence and documents respecting the International Naval Conference, held in London, December, 1908–February, 1909, Cd. 4554; Miscellaneous, No. 5 (1909), Proceedings of the International Naval Conference, held in London, December, 1908–February, 1909, Cd. 4555; Miscellaneous, No. 4 (1910), Correspondence respecting the Declaration of London, Cd. 5418; Miscellaneous, No. 8 (1911), Correspondence respecting the Declaration of London, Cd. 5718; Miscellaneous, No. 4 (1911), Correspondence respecting an additional protocol relative to Establishment of an International Prize Court of October 18, 1907, Cd. 5554; Naval Prize. A bill to consolidate with amendments, the enactments relating to naval prize of war, June 14, 1911, Bill 255; same (as amended by Standing Committee C), Bill 334.

American: Declaration of International Naval Conference. Message from the President of the United States, etc. Executive A, 61st Cong., 1st sess.; Declaration of International Naval Conference . . . together with an opinion of Hon. Cone Johnson, solicitor for the State Department, relative to the transfer of Merchant Ships during War, Sen. Doc. No. 563, 63d Cong., 2d sess.; Naval War College. International Law Topics: The Declaration of London of February 26, 1909. Washington: Government Printing Office, 1910; Treaties, Conventions, etc., between the United States and other Powers, Supplement, 1913, Vol. III, 266–342. (The American documents include the general report, instructions to and report of the American delegates.)

On February 27, 1908, Sir Edward Grey, British secretary of state for foreign affairs, in a circular note stated:

> Article 7 of the convention provides that, in the absence of treaty stipulations applicable to the case, the Court is to decide the appeals that come before it in accordance with the rules of international law, or if no generally recognized rules exist, in accordance with the general principles of justice and equity. . . . The impression was gained [at the Conference] that the establishment of the International Prize Court would not meet with general acceptance so long as vagueness and uncertainty exist as to the principles which the Court, in dealing with appeals brought before it, would apply to questions of far-reaching importance affecting naval policy and practice. His Majesty's Government therefore propose that another conference should assemble during the autumn of the present year, with the object of arriving at an agreement as to what are the generally recognized principles of international law within the meaning of paragraph 2 of Article 7 of the convention.

The London Naval Conference met on December 4, 1908, and the Declaration of London was signed on February 26, 1909, embodying the code of law designed for the International Prize Court. The conference was not a general one. The participating states were Germany, the United States, Austria-Hungary, Spain, France, Great Britain, Italy, Japan, the Netherlands and Russia; or, in general, the maritime powers, and specifically those representing all phases of maritime practice.

British shipping interests, and certain agitators representing those interests or voicing traditional and antiquated theories of naval supremacy, opposed Great Britain's ratification of the Declaration. This was effective because it so happened that improvements in naval prize practice called for by the Declaration conflicted with laws on the British statute books. The government could not ratify the Declaration until the laws were modified. To this end, the naval prize bill, making the necessary changes, was introduced into Parliament. The opponents of the Declaration succeeded in defeating it in the Lords on December 12, 1911. Early in 1914 another bill was introduced, and was on the way to becoming law when the war broke out.

In view of the preponderant British interest in shipping, all the other signatory powers were delaying their action on the Declaration until Great Britain could ratify. In none was there any opposition to it, and the United States Senate acted favorably upon it on April 24, 1912. The Declaration was in force during the Turko-Italian war and the Balkan wars by decree.

On August 6, 1914, Secretary Bryan sent this telegram to the American

embassies at London, Petrograd, Paris, Berlin, and Vienna, and the American legation at Brussels:

> Mr. Bryan instructs [Mr. Page] to inquire whether the [British] Government is willing to agree that the laws of naval warfare as laid down by the Declaration of London of 1909 shall be applicable to naval warfare during the present conflict in Europe provided that the governments with whom [Great Britain] is or may be at war also agree to such application. Mr. Bryan further instructs [Mr. Page] to state that the Government of the United States believes that an acceptance of these laws by the belligerents would prevent grave misunderstandings which may arise as to the relations between neutral Powers and the belligerents. Mr. Bryan adds that it is earnestly hoped that this inquiry may receive favorable consideration.

On August 13 Ambassador Penfield replied that the Austro-Hungarian Government had instructed its forces to observe the stipulations of the Declaration of London during the conflict, conditional on like observance on the part of the enemy. Ambassador Wilson at Petrograd on August 20 reported that the Russian Government was still awaiting the decision of the British Government, "as Russia will take similar action." Ambassador Gerard, on August 22, replied that the German Government "will apply the Declaration of London, provided its provisions are not disregarded by other belligerents."

On August 27, Ambassador Page reported from London, inclosing a note from the British Foreign Office defining its attitude with regard to the Declaration of London, and stating that the British Government "has decided to adopt generally the rules of the Declaration in question, subject to certain modifications and additions which they judge indispensable to the efficient conduct of their naval operations." A memorandum of the Foreign Office and an Order in Council of August 20, 1914, were inclosed. These and later enactments altered the Declaration as indicated below in notes to the articles concerned.

Ambassador Wilson, on August 27, notified the State Department from Petrograd that the Russian Government "accepts the Declaration of London with exact modifications adopted by England and France." Ambassador Herrick, on September 3, reported that France would observe the Declaration with certain reservations.

As a result of the inability to obtain a uniform adoption of the Declaration, the United States Government sent two dispatches, announcing to Great Britain and the other belligerents the withdrawal of its suggestion. The one sent October 22, by Robert Lansing, acting Secretary of State, to Ambassador Page at London, read:

Inasmuch as the British Government consider that the conditions of the present European conflict make it impossible for them to accept without modification the Declaration of London, you are requested to inform His Majesty's Government that in the circumstances the Government of the United States feels obliged to withdraw its suggestion that the Declaration of London be adopted as a temporary code of naval warfare to be observed by belligerents and neutrals during the present war; that therefore this Government will insist that the rights and duties of the United States and its citizens in the present war be defined by the existing rules of international law and the treaties of the United States, irrespective of the provisions of the Declaration of London; and that this Government reserves to itself the right to enter a protest or demand in each case in which those rights and duties so defined are violated or their free exercise interfered with by the authorities of His Britannic Majesty's Government.

DECLARATION CONCERNING THE LAWS OF NAVAL WAR.[1]

His Majesty the German Emperor, King of Prussia; the President of the United States of America; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of Italy; His Majesty the Emperor of Japan; Her Majesty the Queen of the Netherlands; His Majesty the Emperor of All the Russias.

Considering the invitation which the British Government has given to various Powers to meet in conference in order to determine together as to what are the generally recognized rules of international law within the meaning of Article 7 of the Convention of 18th October, 1907, relative to the establishment of an International Prize Court;

Recognizing all the advantages which in the unfortunate event of a naval war, an agreement as to the said rules would present, both as regards peaceful commerce, and as regards the belligerents and as regards their political relations with neutral Governments;

Considering that the general principles of international law are often in their practical application the subject of divergent procedure;

Animated by the desire to insure henceforward a greater uniformity in this respect;

[1] The Declaration was signed in the French language only. The translation here reprinted is by Prof. George Grafton Wilson, one of the American delegates, as published in Naval War College, International Law Topics, 1909, pages 169–193.

Hoping that a work so important to the common welfare will meet with general approval;

Have appointed as their Plenipotentiaries, that is to say:

[Names of Plenipotentiaries]

Who, after having communicated their full powers, found in good and due form, have agreed to make the present Declaration:

Preliminary Provision.

The Signatory Powers are agreed in declaring that the rules contained in the following Chapters correspond in substance with the generally recognized principles of international law.

Chapter I.—*Blockade in time of War.*[1]

Article 1. A blockade must be limited to the ports and coasts belonging to or occupied by the enemy.

Article 2. In accordance with the Declaration of Paris of 1856, a blockade, in order to be binding, must be effective—that is to say, it must be maintained by a force sufficient really to prevent access to the enemy coast.

Article 3. The question whether a blockade is effective is a question of fact.

Article 4. A blockade is not regarded as raised if the blockading forces are temporarily driven off by bad weather.

Article 5. A blockade must be applied impartially to the ships of all nations.

Article 6. The commander of a blockading force may grant to a war ship permission to enter, and subsequently to leave, a blockaded port.

Article 7. In circumstances of distress, acknowledged by an authority of the blockading forces, a neutral vessel may enter a place under blockade and subsequently leave it, provided that she has neither discharged nor shipped any cargo there.

Article 8. A blockade, in order to be binding, must be declared in accordance with Article 9, and notified in accordance with Articles 11 and 16.

Article 9. A declaration of blockade is made either by the blockading Power or by the naval authorities acting in its name.

[1] The provisions of this chapter are in large measure avoided by the war-zone device, Part III of this series. Burden of proof, however, lies against belligerents who disregard the rules of this chapter. Italy's blockade of the Austro-Hungarian coast (May 26 and 28 and July 6) seems to have been the only real blockade of the first year of war. (*Commerce Reports*, July 13, 1915, page 195.)

It specifies—

(1) The date when the blockade begins;

(2) The geographical limits of the coast blockaded;

(3) The delay to be allowed to neutral vessels for departure.

ARTICLE 10. If the blockading Power, or the naval authorities acting in its name, do not establish the blockade in conformity with the provisions, which, in accordance with Article 9 (1) and (2), must be inserted in the declaration of blockade, the declaration is void, and a new declaration is necessary in order to make the blockade operative.

ARTICLE 11. A declaration of blockade is notified—

(1) To the neutral Powers, by the blockading Power by means of a communication addressed to the Governments themselves, or to their representatives accredited to it;

(2) To the local authorities, by the officer commanding the blockading force. These authorities will, on their part, inform, as soon as possible, the foreign consuls who exercise their functions in the port or on the coast blockaded.

ARTICLE 12. The rules relative to the declaration and to the notification of blockade are applicable in the case in which the blockade may have been extended, or may have been re-established after having been raised.

ARTICLE 13. The voluntary raising of a blockade, as also any limitation which may be introduced, must be notified in the manner prescribed by Article 11.

ARTICLE 14. The liability of a neutral vessel to capture for breach of blockade is contingent on her knowledge, actual or presumptive, of the blockade.

ARTICLE 15. Failing proof to the contrary, knowledge of the blockade is presumed if the vessel left a neutral port subsequently to the notification of the blockade made in sufficient time to the Power to which such port belongs.[1]

ARTICLE 16. If a vessel which approaches a blockaded port does not know or cannot be presumed to know of the blockade, the notification must be made to the vessel itself by an officer of one of the ships of the

[1] Modified as follows by Great Britain:

"The existence of a blockade shall be presumed to be known

"(*a*) To all ships which sailed from or touched at an enemy port a sufficient time after the notification of the blockade to the local authorities to have enabled the enemy Government to make known the existence of the blockade;

"(*b*) To all ships which sailed from or touched at a British or allied port after the publication of the declaration of blockade." (Paragraph 4, Order in Council, August 20, 1914).

blockading force. This notification must be entered in the vessel's log-book, with entry of the day and hour, as also of the geographical position of the vessel at the time.

A neutral vessel which leaves a blockaded port must be allowed to pass free if, through the negligence of the officer commanding the blockading force, no declaration of blockade has been notified to the local authorities, or if, in the declaration, as notified, no delay has been indicated.

ARTICLE 17. The seizure of neutral vessels for violation of blockade may be made only within the radius of action of the ships of war assigned to maintain an effective blockade.

ARTICLE 18. The blockading forces must not bar access to the ports or to the coasts of neutrals.

ARTICLE 19. Whatever may be the ulterior destination of the vessel or of her cargo, the evidence of violation of blockade is not sufficiently conclusive to authorize the seizure of the vessel if she is at the time bound toward an unblockaded port.

ARTICLE 20. A vessel which in violation of blockade has left a blockaded port or has attempted to enter the port is liable to capture so long as she is pursued by a ship of the blockading force. If the pursuit is abandoned, or if the blockade is raised, her capture can no longer be effected.

ARTICLE 21. A vessel found guilty of violation of blockade is liable to condemnation. The cargo is also liable to condemnation, unless it is proved that at the time the goods were shipped the shipper neither knew nor could have known of the intention to violate the blockade.

CHAPTER II.—*Contraband of War.*

ARTICLE 22.[1] The following articles and materials are, without notice,[2] regarded as contraband, under the name of absolute contraband:[3]

[1] "The lists of absolute and conditional contraband contained in the proclamation dated August 4, 1914, shall be substituted for the lists contained in articles 22 and 24 of the said declaration." (Paragraph 1, Order in Council, August 20, 1914).

The British list of contraband has been repeatedly revised, the list of absolute and conditional contraband as standing on May 1, 1915, being in *Manual of Emergency Legislation*, Supplement No. 3, 602–4. The British allies make their lists conform. The lists of the opposing belligerents are not so large, but they tend to harmonize with those of the other side.

[2] Following the British formula "de plein droit" is translated by the words "without notice," which represent the meaning attached to the expression by the draftsman as appears from the General Report.

[3] The British list of absolute contraband up to April 30, 1915, was as follows:

1, Arms of all kinds, including arms for sporting purposes, and their distinctive component parts; 2, Projectiles, charges, and cartridges of all kinds, and their dis-

(1) Arms of all kinds, including arms for sporting purposes, and their unassembled distinctive parts.

(2) Projectiles, charges, and cartridges of all kinds, and their unassembled distinctive parts.

(3) Powder and explosives specially adapted for use in war.

(4) Gun carriages, caissons, limbers, military wagons, field forges, and their unassembled distinctive parts.

(5) Clothing and equipment of a distinctive military character.

(6) All kinds of harness of a distinctively military character.

(7) Saddle, draft, and pack animals suitable for use in war.

(8) Articles of camp equipment and their unassembled distinctive parts.

(9) Armor plates.

tinctive component parts; 3, Powder and explosives specially prepared for use in war; 4, Ingredients of explosives, viz., nitric acid, sulphuric acid, glycerine, acetone, calcium acetate and all other metallic acetates, sulphur, potassium nitrate, the fractions of the distillation products of coal tar between benzol and cresol inclusive, aniline, methylaniline, dimethylaniline, ammonium perchlorate, sodium perchlorate, sodium chlorate, barium chlorate, ammonium nitrate, cyanide, potassium chlorate, calcium nitrate, mercury; 5, Resinous products, camphor, and turpentine (oil and spirit); 6, Gun mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts; 7, Rangefinders and their distinctive component parts; 8, Clothing and equipment of a distinctively military character; 9, Saddle, draft, and pack animals suitable for use in war; 10, All kinds of harness of a distinctively military character; 11, Articles of camp equipment and their distinctive component parts; 12, Armor plates; 13, Ferro alloys, including ferrotungsten, ferromolybdenum, ferromanganese, ferrovanadium, ferrochrome; 14, The following metals: Tungsten, molybdenum, vanadium, nickel, selenium, cobalt, haematite pig-iron, manganese; 15, The following ores: Wolframite, scheelite, molybdenite, manganese ore, nickel ore, chrome ore, haematite iron ore, zinc ore, lead ore, bauxite; 16, Aluminum, alumina, and salts of aluminum; 17, Antimony, together with the sulphides and oxides of antimony; 18, Copper, unwrought and part wrought, and copper wire; 19, Lead, pig, sheet, or pipe; 20, Barbed wire, and implements for fixing and cutting the same; 21, Warships, including boats and their distinctive component parts of such a nature that they can only be used on a vessel of war; 22, Submarine sound signaling apparatus; 23, Aeroplanes, airships, balloons, and aircraft of all kinds, and their component parts, together with accessories and articles recognizable as intended for use in connection with balloons and aircraft; 24, Motor vehicles of all kinds and their component parts; 25, Tires for motor vehicles and for cycles, together with articles or materials especially adapted for use in the manufacture or repair of tires; 26, Rubber (including raw, waste, and reclaimed rubber) and goods made wholly of rubber; 27, Iron pyrites; 28, Mineral oils and motor spirit, except lubricating oils; 29, Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land and sea; 30, Raw wool, wool tops and noils and woollen and worsted yarns; 31, Tin, chloride of tin, tin

(10) Warships and boats and their unassembled parts specially distinctive as suitable for use only in a vessel of war.

(11) Implements and apparatus made exclusively for the manufacture of munitions of war, for the manufacture or repair of arms or of military material, for use on land or sea.

ARTICLE 23. Articles and materials which are exclusively used for war may be added to the list of absolute contraband by means of a notified declaration.

The notification is addressed to the Governments of other Powers, or to their representatives accredited to the Power which makes the declara-

ore; 32, Castor oil; 33, Paraffin wax; 34, Copper iodide; 35, Lubricants; * 36, Hides of cattle, buffaloes, and horses; skins of calves, pigs, sheep, goats, and deer; leather, undressed or dressed, suitable for saddlery, harness, military boots, or military clothing; 37, Ammonia and its salts whether simple or compound; ammonia liquor; urea, aniline, and their compounds.

The following is the German list of absolute contraband up to April 18, 1915:

1, Arms of all kinds, including arms for sporting purposes, and their distinctive component parts; 2, Projectiles, charges, and cartridges of all kinds, and their distinctive component parts; 3, Powder and explosives of all kinds; 4, Cannon barrels, gun mountings, limber boxes, limbers, field kitchens and bakeries, supply wagons, field forges, searchlights and searchlight accessories, and their distinctive component parts; 5, Range finders and their distinctive component parts; 6, Field glasses, telescopes, chronometers, and all kinds of nautical instruments; 7, Clothing and equipment of a distinctively military character; 8, Saddle, draft, and pack animals suitable for use in war; 9, All kinds of harness of a distinctively military character; 10, Articles of camp equipment and their distinctive component parts; 11, Armor plates; 12, Lead, pig, sheet, or pipe; 13, Barbed wire, and implements for fixing and cutting the same; 14, Tinplate; 15, Warships, including boats and their distinctive component parts of such a nature that they can only be used on a vessel of war; ship plates and construction steel; 16, Submarine sound signaling apparatus; 17, Aeroplanes, airships, balloons, and aircraft of all kinds, and their distinctive component parts, together with accessories, articles and materials, recognizable as intended for use in connection with balloons and aircraft; 18, Implements and devices designed exclusively for the manufacture and repair of arms and munitions of war; 19, Lathes of all kinds; 20, Mining lumber; 21, Coal and coke; 22, Flax.

*The British ambassador at Washington wrote in regard to this item as follows on April 10, 1915:

"I am informed that the interpretation of lubricants now absolute contraband is as follows: Mineral, including mineral oils, jellies or greases of all kinds, pure or compounded; graphite, natural or artificial; Vegetable, including vegetable lubricating oils and fats of all kinds, and resin greases, and their mixtures; Animal, including all animal oils and fats for use as lubricants, and their mixtures; Fish, including whale oil (train, blubber, sperm), seal or shark oil, and fish oil generally; mixtures or compounds of any of the foregoing."—(*Department of State. Diplomatic Correspondence with Belligerent Governments*, etc., 18.)

tion. A notification made after the opening of hostilities is addressed only to neutral Powers.

ARTICLE 24.[1] The following articles and materials susceptible of use in war as well as for purposes of peace, are without notice,[2] regarded as contraband of war, under the name of conditional contraband:[3]

[1] See first note to Article 22.

[2] See note 2 on page vii.

[3] The British list of conditional contraband up to April 30, 1915, was as follows: 1, Foodstuffs*; 2, Forage and feeding stuffs for animals*; 3, Clothing, fabrics for clothing, and boots and shoes suitable for use in war; 4, Gold and silver in coin or bullion; paper money; 5, Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts; 6, Vessels, craft, and boats of all kinds; floating docks, parts of docks, and their component parts; 7, Railway materials, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs, and telephones; 8, Fuel, other than mineral oils; lubricants; 9, Powder and explosives not specially prepared for use in war; 10, Horseshoes and shoeing materials; 11, Harness and saddlery; 12, Hides of all kinds, dry or wet; pigskins, raw or dressed; leather, undressed or dressed, suitable for saddlery, harness, or military boots; 13, Field glasses, telescopes, chronometers, and all kinds of nautical instruments; 14, Tanning substances of all kinds (including extracts for use in tanning).

The following is the German list of conditional contraband up to April 18, 1915: 1, Foodstuffs; 2, Forage and all kinds of feeding stuffs; 3, Clothing, fabrics for clothing, and boots and shoes, suitable for use in war; 4, Wool from animals, raw or dressed, together with woolen carded yarns, and worsted yarns; 5, Gold and silver, in coin or bullion; paper money; 6, Vehicles of all kinds, especially all motor vehicles available for use in war, and their component parts; 7, Rubber tires for motor vehicles, together with all articles or materials especially used in the manufacture or repair of rubber tires; 8, Rubber and gutta-percha, together with goods made thereof; 9, Railway materials, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs, and telephones; 10, Fuel, excepting coal and coke; lubricants; 11, Sulphur, sulphuric acid, nitric acid; 12, Horseshoes and shoeing materials; 13, The following ores: Wolframite, scheelite, molybdenite, nickel ore, chrome ore, hæmatite iron ore, manganese ore, lead ore; 14, The following metals: Wolfram, molybdenum, vanadium, nickel, selenium, cobalt, hæmatite pig-iron, manganese, aluminium, copper; 15, Antimony, together with the sulphides and oxides of antimony; 16, Ferro alloys, including ferrowolfram, ferromolybdenum, ferromanganese, ferrovanadium, ferrochrome; 17, Harness and saddlery; 18, Leather, treated and untreated, when suitable for saddlery, harness, military boots or military clothing; 19, Tanning materials of all kinds, including extracts used in tanning; 20, All kinds of lumber, rough or treated, especially hewn, sawed, planed, fluted, excepting mining lumber, tar of charcoal; 21, Vessels, craft, and boats of all kinds, floating docks, parts of docks, and their component parts.

*The proclamation of March 11, 1915, provides that "foodstuffs" and "feeding stuffs for animals" "shall be deemed to include oleaginous seeds, nuts and kernels, animal and vegetable oils, and fats (other than linseed oil) suitable for use in the manufacture of margarine; and cakes and meals made from oleaginous seeds, nuts and kernels."

(1) Food.

(2) Forage and grain suitable for feeding animals.

(3) Clothing and fabrics for clothing, boots and shoes, suitable for military use.

(4) Gold and silver in coin or bullion; paper money.

(5) Vehicles of all kinds available for use in war, and their unassembled parts.

(6) Vessels, craft, and boats of all kinds, floating docks, parts of docks, as also their unassembled parts.

(7) Fixed railway material and rolling stock, and material for telegraphs, radio telegraphs, and telephones.

(8) Balloons and flying machines and their unassembled distinctive parts as also their accessories, articles and materials distinctive as intended for use in connection with balloons or flying machines.

(9) Fuel; lubricants.

(10) Powder and explosives which are not specially adapted for use in war.

(11) Barbed wire as also the implements for placing and cutting the same.

(12) Horseshoes and horseshoeing materials.

(13) Harness and saddlery material.

(14) Binocular glasses, telescopes, chronometers, and all kind of nautical instruments.

ARTICLE 25. Articles and materials susceptible of use in war as well as for purposes of peace, and other than those enumerated in Articles 22 and 24, may be added to the list of conditional contraband by means of a declaration, which must be notified in the manner provided for in the second paragraph of Article 23.

ARTICLE 26. If a Power waives, so far as it is concerned, the right to regard as contraband of war articles and materials which are comprised in any of the classes enumerated in Articles 22 and 24, it shall make known its intention by a declaration notified in the manner provided for in the second paragraph of Article 23.

ARTICLE 27. Articles and materials which are not susceptible of use in war are not to be declared contraband of war.

ARTICLE 28. The following are not to be declared contraband of war:

(1) Raw cotton, wool, silk, jute, flax, hemp, and other raw materials of the textile industries, and also yarns of the same.

(2) Nuts and oil seeds; copra.

(3) Rubber, resins, gums, and lacs; hops.

(4) Raw hides, horns, bones, and ivory.

(5) Natural and artificial manures, including nitrates and phosphates for agricultural purposes.

(6) Metallic ores.

(7) Earths, clays, lime, chalk, stone, including marble, bricks, slates, and tiles.

(8) Chinaware and glass.

(9) Paper and materials prepared for its manufacture.

(10) Soap, paint and colors, including articles exclusively used in their manufacture, and varnishes.

(11) Bleaching powder, soda ash, caustic soda, salt cake, ammonia, sulphate of ammonia, and sulphate of copper.

(12) Agricultural, mining, textile, and printing machinery.

(13) Precious stones, semi-precious stones, pearls, mother-of-pearl, and coral.

(14) Clocks and watches, other than chronometers.

(15) Fashion and fancy goods.

(16) Feathers of all kinds, hairs, and bristles.

(17) Articles of household furniture and decoration; office furniture and accessories.

ARTICLE 29. Neither are the following to be regarded as contraband of war:

(1) Articles and materials serving exclusively for the care of the sick and wounded. They may, nevertheless, in case of urgent military necessity and subject to the payment of compensation, be requisitioned, if their destination is that specified in Article 30.

(2) Articles and materials intended for the use of the vessel in which they are found, as well as those for the use of her crew and passengers during the voyage.

ARTICLE 30. Absolute contraband is liable to capture if it is shown to be destined to territory belonging to or occupied by the enemy, or to the armed forces of the enemy. It is immaterial whether the carriage of the goods is direct or entails either transshipment or transport over land.

ARTICLE 31. Proof of the destination specified in Article 30 is complete in the following cases:

(1) When the goods are documented to be discharged in a port of the enemy, or to be delivered to his armed forces.

(2) When the vessel is to call at enemy ports only, or when she is to touch at a port of the enemy or to join his armed forces, before arriving at the neutral port for which the goods are documented.

ARTICLE 32. The ship's papers are complete proof of the voyage of a vessel

transporting absolute contraband, unless the vessel is encountered having manifestly deviated from the route which she ought to follow according to the ship's papers and being unable to justify by sufficient reason such deviation.[1]

ARTICLE 33.[2] Conditional contraband is liable to capture if it is shown that it is destined for the use of the armed forces or of a government department of the enemy State, unless in this latter case the circumstances show that the articles cannot in fact be used for the purposes of the war in progress. This latter exception does not apply to a consignment coming under Article 24 (4).

ARTICLE 34.[3] There is presumption of the destination referred to in Article 33 if the consignment is addressed to enemy authorities, or to a merchant, established in the enemy country, and when it is well known that this merchant supplies articles and materials of this kind to the enemy. The presumption is the same if the consignment is destined to a fortified place of the enemy, or to another place serving as a base for the armed forces of the enemy; this presumption, however, does not apply to the merchant vessel herself bound for one of these places and of which vessel it is sought to show the contraband character.

Failing the above presumptions, the destination is presumed innocent.

The presumptions laid down in this Article admit proof to the contrary.[4]

[1] Modified as follows by Great Britain:

"A neutral vessel which succeeded in carrying contraband to the enemy with false papers may be detained for having carried such contraband if she is encountered before she has completed her return voyage." (Paragraph 2, Order in Council, August 20, 1914.)

"A neutral vessel, with papers indicating a neutral destination, which, notwithstanding the destination shown on the papers, proceeds to an enemy port, shall be liable to capture and condemnation if she is encountered before the end of her next voyage." (Paragraph 1 (i), Order in Council, October 29, 1914.)

[2] Modified as follows by Great Britain:

"The destination referred to in Article 33 may be inferred from any sufficient evidence, and (in addition to the presumption laid down in Article 34) shall be presumed to exist if the goods are consigned to or for an agent of the enemy State or to or for a merchant or other person under the control of the authorities of the enemy State." (Paragraph 3, Order in Council, August 20, 1914.)

"The destination referred to in Article 33 of the said Declaration shall (in addition to the presumptions laid down in Article 34) be presumed to exist if the goods are consigned to or for an agent of the enemy State." (Paragraph 1 (ii), Order in Council, October 29, 1914.)

[3] See note 2.

[4] Modified as follows by Germany:

"In the absence of conditions to the contrary, the hostile destination . . . is to be presumed when (*A*) the goods are consigned to an enemy authority or the

ARTICLE 35.[1] Conditional contraband is not liable to capture, except when on board a vessel bound for territory belonging to or occupied by the enemy, or for the armed forces of the enemy, and when it is not to be discharged at an intervening neutral port.

agent of such or to a dealer shown to have supplied articles of the kind in question or products thereof to the armed forces or the administrative authorities of the enemy state; (*B*) the goods are consigned to order or the ship's papers do not show who is the consignee or the goods are consigned to a person in territory belonging to or occupied by the enemy; (*C*) the goods are destined for an armed place of the enemy or a place serving as a base of operations or supplies to the armed forces of the enemy.

"Merchant vessels themselves are not to be considered as destined for the armed forces or the administrative authorities of the enemy solely for the reason that they are found en route to one of the places referred to under letter *C*." (Article 33 of German prize ordinance, revised April 18, 1915.)

[1] Modified as follows by Great Britain:

"Notwithstanding the provisions of Article 35 of the said Declaration, conditional contraband, if shown to have the destination referred to in Article 32, is liable to capture, to whatever port the vessel is bound and at whatever port the cargo is to be discharged." (Paragraph 5, Order in Council, August 20, 1914.)

"Notwithstanding the provisions of Article 35 of the said Declaration, conditional contraband shall be liable to capture on board a vessel bound for a neutral port if the goods are consigned "to order," or if the ship's papers do not show who is the consignee of the goods or if they show a consignee of the goods in territory belonging to or occupied by the enemy.

"In the cases covered by the preceding paragraph, it shall lie upon the owners of the goods to prove that their destination was innocent." (Paragraph 1 (iii and iv), Order in Council, October 29, 1914.)

"Where it is shown to the satisfaction of one of His Majesty's Principal Secretaries of State that the enemy Government is drawing supplies for its armed forces from or through a neutral country, he may direct that in respect of ships bound for a port in that country Article 35 of the said Declaration shall not apply. Such direction shall be notified in the London *Gazette* and shall operate until the same is withdrawn. So long as such direction is in force, a vessel which is carrying conditional contraband to a port in that country shall not be immune from capture." (Paragraph 2, Order in Council, October 29, 1914.)

Modified as follows by Germany:

"Articles of conditional contraband are liable to seizure only on a vessel en route to territory belonging to or occupied by the enemy or to the armed forces of the enemy, and such vessel is not intended to unload these articles in an intermediate neutral port—that is to say, in a port at which the vessel is to call previous to reaching the ultimate destination designated.

"This paragraph shall not apply if the conditions provided in article 33, letter *B* [see note to Article 31, above], are present or if the vessel is bound for a neutral country with regard to which it is shown that the enemy government draws articles of the kind in question from that country." (Article 35 of German prize ordinance, revised April 18, 1915.)

The ship's papers are conclusive proof of the voyage of the vessel as also of the port of discharge of the goods, unless the vessel is encountered having manifestly deviated from the route which she ought to follow according to the ship's papers and being unable to justify by sufficient reason such deviation.

ARTICLE 36. Notwithstanding the provisions of Article 35, if the territory of the enemy has no seaboard, conditional contraband is liable to capture if it is shown that it has the destination referred to in Article 33.

ARTICLE 37. A vessel carrying articles liable to capture as absolute or conditional contraband may be captured on the high seas or in the territorial waters of the belligerents throughout the whole course of her voyage, even if she has the intention to touch at a port of call before reaching the hostile destination.

ARTICLE 38.[1] A capture is not to be made on the ground of a carriage of contraband previously accomplished and at the time completed.

ARTICLE 39. Contraband is liable to condemnation.

ARTICLE 40. The confiscation of the vessel carrying contraband is allowed if the contraband forms, either by value, by weight, by volume, or by freight, more than half the cargo.

ARTICLE 41. If a vessel carrying contraband is released, the expenses incurred by the captor in the trial before the national prize court as also for the preservation and custody of the ship and cargo during the proceedings are chargeable against the ship.

ARTICLE 42. Goods which belong to the owner of the contraband and which are on board the same vessel are liable to condemnation.

ARTICLE 43. If a vessel is encountered at sea making a voyage in ignorance of the hostilities or of the declaration of contraband affecting her cargo, the contraband is not to be condemned except with indemnity; the vessel herself and the remainder of the cargo are exempt from condemnation and from the expenses referred to in Article 41. The case is the same if the master after becoming aware of the opening of hostilities, or of the declaration of contraband, has not yet been able to discharge the contraband.

A vessel is deemed to be aware of the state of war, or of the declaration of contraband, if she left a neutral port after there had been made in

[1] Modified as follows by Germany:

"A vessel cannot be captured on the ground of an already completed voyage carrying contraband. If, however, the vessel carried contraband to the enemy contrary to the indications of the ship's papers, it shall be liable to capture and condemnation until the end of the war." (Article 40 of German prize ordinance, revised April 18, 1915.)

sufficient time the notification of the opening of hostilities, or of the declaration of contraband, to the power to which such port belongs. A vessel is also deemed to be aware of a state of war if she left an enemy port after the opening of hostilities.

ARTICLE 44. A vessel stopped because carrying contraband, and not liable to condemnation on account of the proportion of contraband, may, according to circumstances, be allowed to continue her voyage if the master is ready to deliver the contraband to the belligerent ship.

The delivery of the contraband is to be entered by the captor on the logbook of the vessel stopped, and the master of the vessel must furnish the captor duly certified copies of all relevant papers.

The captor is at liberty to destroy the contraband which is thus delivered to him.

CHAPTER III.—*Unneutral Service.*

ARTICLE 45. A neutral vessel is liable to be condemned and, in a general way, is liable to the same treatment which a neutral vessel would undergo when liable to condemnation on account of contraband of war:

(1) If she is making a voyage especially with a view to the transport of individual passengers who are embodied in the armed force of the enemy, or with a view to the transmission of information in the interest of the enemy.

(2) If, with the knowledge of the owner, of the one who charters the vessel entire, or of the master, she is transporting a military detachment of the enemy, or one or more persons who, during the voyage, lend direct assistance to the operations of the enemy.

In the cases specified in the preceding paragraphs, (1) and (2), goods belonging to the owner of the vessel are likewise liable to condemnation.

The provisions of the present Article do not apply if when the vessel is encountered at sea she is unaware of the opening of hostilities, or if the master, after becoming aware of the opening of hostilities, has not been able to disembark the passengers. The vessel is deemed to know of the state of war if she left an enemy port after the opening of hostilities, or a neutral port after there had been made in sufficient time a notification of the opening of hostilities to the Power to which such port belongs.

ARTICLE 46. A neutral vessel is liable to be condemned and, in a general way, is liable to the same treatment which she would undergo if she were a merchant vessel of the enemy:

(1) If she takes a direct part in the hostilities.

(2) If she is under the orders or under the control of an agent placed on board by the enemy Government.

(3) If she is chartered entire by the enemy Government.

(4) If she is at the time and exclusively either devoted to the transport of enemy troops or to the transmission of information in the interest of the enemy.

In the cases specified in the present Article, the goods belonging to the owner of the vessel are likewise liable to condemnation.

ARTICLE 47. Any individual embodied in the armed force of the enemy, and who is found on board a neutral merchant vessel, may be made a prisoner of war, even though there be no ground for the capture of the vessel.

CHAPTER IV.—*Destruction of Neutral Prizes.*

ARTICLE 48. A captured neutral vessel is not to be destroyed by the captor, but must be taken into such port as is proper in order to determine there the rights as regards the validity of the capture.

ARTICLE 49. As an exception, a neutral vessel captured by a belligerent ship, and which would be liable to condemnation, may be destroyed if the observance of Article 48 would involve danger to the ship of war or to the success of the operations in which she is at the time engaged.

ARTICLE 50. Before the destruction, the persons on board must be placed in safety, and all the ship's papers and other documents which those interested consider relevant for the decision as to the validity of the capture must be taken on board the ship of war.

ARTICLE 51. A captor who has destroyed a neutral vessel must, as a condition precedent to any decision upon the validity of the capture, establish in fact that he only acted in the face of an exceptional necessity such as is contemplated in Article 49. Failing to do this, he must compensate the parties interested without examination as to whether or not the capture was valid.

ARTICLE 52. If the capture of a neutral vessel, of which the destruction has been justified, is subsequently held to be invalid, the captor must compensate those interested, in place of the restitution to which they would have been entitled.

ARTICLE 53. If neutral goods which were not liable to condemnation have been destroyed with the vessel, the owner of such goods is entitled to compensation.

ARTICLE 54. The captor has the right to require the giving up of, or to proceed to destroy, goods liable to condemnation found on board a vessel which herself is not liable to condemnation, provided that the circumstances are such as, according to Article 49, justify the destruction of a vessel liable to condemnation. The captor enters the goods delivered or

destroyed in the logbook of the vessel stopped, and must procure from the master duly certified copies of all relevant papers. When the giving up or destruction has been completed, and the formalities have been fulfilled, the master must be allowed to continue his voyage.

The provisions of Articles 51 and 52 respecting the obligations of a captor who has destroyed a neutral vessel are applicable.

CHAPTER V.—*Transfer of Flag.*

ARTICLE 55. The transfer of an enemy vessel to a neutral flag, effected before the opening of hostilities, is valid, unless it is proved that such transfer was made in order to evade the consequences which the enemy character of the vessel would involve. There is, however, a presumption that the transfer is void if the bill of sale is not on board in case the vessel has lost her belligerent nationality less than sixty days before the opening of hostilities. Proof to the contrary is admitted.

There is absolute presumption of the validity of a transfer effected more than thirty days before the opening of hostilities if it is absolute, complete, conforms to the laws of the countries concerned, and if its effect is such that the control of the vessel and the profits of her employment do not remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than sixty days before the opening of hostilities, and if the bill of sale is not on board, the capture of the vessel would not give a right to compensation.

ARTICLE 56. The transfer of an enemy vessel to a neutral flag, effected after the opening of hostilities, is void unless it is proved that such transfer was not made in order to evade the consequences which the enemy character of the vessel would involve.

There is, however, absolute presumption that a transfer is void:

(1) If the transfer has been made during a voyage or in a blockaded port.

(2) If there is a right of redemption or of reversion.

(3) If the requirements upon which the right to fly the flag depends according to the laws of the country of the flag hoisted have not been observed.

CHAPTER VI.—*Enemy Character.*

ARTICLE 57. Subject to the provisions respecting the transfer of flag, the neutral or enemy character of a vessel is determined by the flag which she has the right to fly.

The case in which a neutral vessel is engaged in a trade which is reserved in time of peace, remains outside the scope of, and is in no wise affected by, this rule.

ARTICLE 58. The neutral or enemy character of goods found on board an enemy vessel is determined by the neutral or enemy character of the owner.

ARTICLE 59. If the neutral character of goods found on board an enemy vessel is not proven, they are presumed to be enemy goods.

ARTICLE 60. The enemy character of goods on board an enemy vessel continues until they reach their destination, notwithstanding an intervening transfer after the opening of hostilities while the goods are being forwarded.

If, however, prior to the capture, a former neutral owner exercises, on the bankruptcy of a present enemy owner, a legal right to recover the goods, they regain their neutral character.

CHAPTER VII.—*Convoy.*

ARTICLE 61. Neutral vessels under convoy of their national flag are exempt from search. The commander of a convoy gives, in writing, at the request of the commander of a belligerent ship of war, all information as to the character of the vessels and their cargoes, which could be obtained by visit and search.

ARTICLE 62. If the commander of the belligerent ship of war has reason to suspect that the confidence of the commander of the convoy has been abused, he communicates his suspicions to him. In such a case it is for the commander of the convoy alone to conduct an investigation. He must state the result of such investigation in a report, of which a copy is furnished to the officer of the ship of war. If, in the opinion of the commander of the convoy, the facts thus stated justify the capture of one or more vessels, the protection of the convoy must be withdrawn from such vessels.

CHAPTER VIII.—*Resistance to Search.*

ARTICLE 63. Forcible resistance to the legitimate exercise of the right of stoppage, visit and search, and capture, involves in all cases the condemnation of the vessel. The cargo is liable to the same treatment which the cargo of an enemy vessel would undergo. Goods belonging to the master or owner of the vessel are regarded as enemy goods.

Chapter IX.—*Compensation.*

Article 64. If the capture of a vessel or of goods is not upheld by the prize court, or if without being brought to judgment the captured vessel is released, those interested have the right to compensation, unless there were sufficient reasons for capturing the vessel or goods.

Final Provisions.

Article 65. The provisions of the present Declaration form an indivisible whole.

Article 66. The Signatory Powers undertake to secure the reciprocal observance of the rules contained in this Declaration in case of a war in which the belligerents are all parties to this Declaration. They will therefore issue the necessary instructions to their authorities and to their armed forces, and will take the measures which are proper in order to guarantee the application of the Declaration by their courts and more particularly by their prize courts.

Article 67. The present Declaration shall be ratified as soon as possible.[1]

The ratifications shall be deposited in London.

The first deposit of ratifications shall be recorded in a Protocol signed by the Representatives of the Powers taking part therein, and by His Britannic Majesty's Principal Secretary of State for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the British Government, and accompanied by the instrument of ratification.

[1] The final protocol, omitted in this reprint, contains the following wish:

"The Delegates of Powers represented at the Naval Conference which have signed or expressed the intention of signing the Convention of The Hague of the 18th October, 1907, for the establishment of an International Prize Court, having regard to the difficulties of a constitutional nature which, in some States, present obstacles to the ratification of that Convention in its present form, agree to call the attention of their respective Governments to the advantage of concluding an arrangement under which such States would have the power, at the time of depositing their ratifications, to add thereto a reservation to the effect that the right to resort to the International Prize Court in respect of decisions of their National Tribunals shall take the form of a direct claim for indemnity provided always that the effect of this reservation shall not be such as to impair the rights secured under the said Convention either to individuals or to their Governments, and that the terms of the reservation shall form the subject of a subsequent understanding between the Powers signatory of that Convention."

A duly certified copy of the Protocol relating to the first deposit of ratifications, and of the notifications mentioned in the preceding paragraph as well as of the instruments of ratification which accompany them, shall be immediately sent by the British Government, through the diplomatic channel, to the Signatory Powers. The said Government shall, in the cases contemplated in the preceding paragraph, inform them at the same time of the date on which it received the notification.

ARTICLE 68. The present Declaration shall take effect, in the case of the Powers which were parties to the first deposit of ratifications, sixty days after the date of the Protocol recording such deposit, and, in the case of the Powers which shall ratify subsequently, sixty days after the notification of their ratification shall have been received by the British Government.

ARTICLE 69. In the event of one of the Signatory Powers wishing to denounce the present Declaration, such denunciation can only be made to take effect at the end of a period of twelve years, beginning sixty days after the first deposit of ratifications, and, after that time, at the end of successive periods of six years, of which the first will begin at the end of the period of twelve years.

Such denunciation must be notified in writing, at least one year in advance, to the British Government, which shall inform all the other Powers.

It will only operate in respect of the Power which shall have made the notification.

ARTICLE 70. The Powers represented at the London Naval Conference attach particular value to the general recognition of the rules which they have adopted, and express the hope that the Powers which were not represented there will adhere to the present Declaration. They request the British Government to invite them to do so.

A Power which desires to adhere notifies its intention in writing to the British Government, in transmitting the act of adhesion, which will be deposited in the archives of the said Government.

The said Government shall forthwith transmit to all the other Powers a duly certified copy of the notification, as also of the act of adhesion, stating the date on which such notification was received. The adhesion takes effect sixty days after such date.

The position of the adhering Powers shall be in all matters concerning this Declaration similar to the position of the Signatory Powers.

ARTICLE 71. The present Declaration, which shall bear the date of the 26th February, 1909, may be signed in London until the 30th June, 1909, by the Plenipotentiaries of the Powers represented at the Naval Conference.

In faith whereof the Plenipotentiaries have signed the present Declaration and have thereto affixed their seals.

Done at London, the twenty-sixth day of February, one thousand nine hundred and nine, in a single original, which shall remain deposited in the archives of the British Government, and of which duly certified copies shall be sent through the diplomatic channel to the Powers represented at the Naval Conference.

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III. War Zones, or Strategic Areas.

INTRODUCTION.

A blockade in order to be binding must be effective. Such was the rule finally fixed in 1856 by the Declaration of Paris to outlaw the paper blockade as a method of warfare. The blockade is, however, an amphibious thing, a naval cordon drawn to interfere primarily with an enemy's land supplies which happen to be sea-borne. On land an area of hostilities falls under the jurisdiction of the commander of the army. At sea a permanent area under the control of a fleet was not contemplated until within very modern times, but it was understood that the naval zone of active operations, where a battle was actually in progress, was interdicted to neutrals and noncombatants.

The present European war has brought into prominence another conception, a military, or strategic, area, commonly called a war zone. As established in practice it is aimed to secure many of the effects of a blockade, but its primary motive is to pre-empt a portion of the high sea for a continuous naval employment.

As employed in the European war, the war zone involves a development beyond its previous employment by Japan in the Russo-Japanese war. In 1904 the strategic areas proclaimed were without exception adjacent to territorial waters and for the most part within the limits of a debatable territorial jurisdiction, including straits. The European war has seen the closing of waters unquestionably part of the high sea. The North Sea, the North and Irish Channels, the Black Sea and Sea of Azov, the Gulf of Smyrna, the Gulf of Venice, and the Adriatic Sea adjoining Istria and Dalmatia, have all been closed to free navigation. Altogether about 5,000 square miles of high sea have been pre-empted, and belts adjacent to coasts ranging from 3 miles to 15 miles seaward have been closed by mining. Very many ports have been either closed, or placed under restrictions, ranging from circumscribing channels and prohibition of night entry to complete closure.

Such is the development of the war-zone idea. It is undoubtedly based on a legitimate theory and it has grown under the hands of belligerents in their efforts to offset enemy use of mines and submarines, which are new

weapons of warfare. Whether this growth is itself legitimate is a debatable question.

The first application of the principle of the war zone is to be found in the Imperial Japanese Ordinance No. 11, January 23, 1904, issued about two weeks before the declaration of war with Russia. The defining portions of the ordinance are:

ART. 1. In case of war or emergency, the minister of the navy may, limiting an area, designate a defense sea area under this ordinance. The designation, or revocation, of such defense sea area shall be advertised by the minister of the navy.

ART. 3. In the defense sea area, the ingress and egress and passage of any vessels other than those belonging to the army or navy are prohibited from sunset to sunrise.

ART. 4. Within the limits of naval and secondary naval ports included in a defense sea area the ingress and egress and passage of all vessels other than those belonging to the army or navy are prohibited.

ART. 5. All vessels which enter, leave, pass through, or anchor in a defense sea area shall obey the direction of the commander in chief of the naval station, or the commandant of the secondary naval station concerned.

Under this ordinance about a dozen strategic areas were established.[1] "In several areas," says International Law Situations,[2] Naval War College, 1912, "the boundaries seem to have run outside the 3-mile limit and even 10 miles from land seems to have been included in some instances. The straits connecting open seas were also included. It is generally held that straits connecting open seas are not to be blockaded." The Japanese prize court condemned the steamship *Quang-nam* for what was held to be reconnoitering within the Pescadores "defense sea area."[3]

The attitude of the United States toward the theory was determined at the Naval War College at Newport in 1912. The college in respect to international law deals exclusively with points upon which practice is not well settled and defined. Discussions for many years past are under the direction of Prof. George Grafton Wilson, of Harvard University, who draws up the reports. It should be further explained that the college is made up of officers in the higher commands, averaging about thirty years' service. The conclusions of the Naval War College are therefore

[1] Tokyo Bay, Hakodate, Otaru, Nagasaki, Ki-tan Strait (Kobe), *For. Rel.*, 1904, 416–418; Kelung, Formosa, *ibid.*, 1905, 591–592.

[2] Page 126.

[3] *Russian and Japanese Prize Cases*, Vol. II, 343–353.

of practical helpfulness for the service which its members represent. On this account, the definitions and conclusions of the War College concerning a war zone, here described as "the strategic area," become highly important.

As usual, this subject was discussed under the form of a problem with its solution. These were stated as follows:

There is war between States X and Y. Other States are neutral. A merchant vessel of the United States is proceeding to a port of State Z and is 10 miles from any land, though at that distance from the coast of State X. A cruiser of State X approaches and warns the master of the merchant vessel that he must keep farther off the coast as this water is within the strategic area which has been proclaimed by the Government of X and is closed to all vessels.

The master appeals to the commander of a cruiser of the United States to escort him through this area. The voyage would not bring the vessels within 5 miles of the coast of State X.

What should the commander do?

SOLUTION.

The commander should decline to escort the merchant vessel through the strategic area.

He should advise the master of the merchant vessel to keep clear of the strategic area.

In the résumé of the discussion it is stated:

The practice, nature of regulations, and drift of opinion seem to show that in time of war a belligerent is entitled to take measures for his protection which are not unreasonable. Certainly he is entitled to regulate the use of his territorial waters in such fashion as shall be necessary for his well-being. Similarly a belligerent may be obliged to assume in time of war for his own protection a measure of control over the waters which in time of peace would be outside of his jurisdiction. It is universally admitted that if a neutral vessel is carrying contraband to his opponent, a belligerent may take the vessel to a prize court for adjudication. For such an act the course of the vessel may be changed, and it may be subjected to long delay. Would it be reasonable to contend that the course of a vessel may be changed to keep it out of a specified area because it might there obtain information which would be of vastly greater importance to the enemy than a cargo of contraband, however noxious that might be?

1. British Admiralty Announcements.

a. NOTICE TO MARINERS.[1]

[*London Gazette, No. 28935, October 13, 1914, page 8158.*]

No. 1626 of the year 1914.
North Sea.
Caution with regard to mined areas.

In confirmation of the Public Notice, which has already been issued to the Press, the following information is now promulgated.

Caution.—H. M. Government have authorized a mine-laying policy in certain areas, and a system of mine-fields has been established and is being developed upon a considerable scale.

It is dangerous henceforth for ships to cross the area between the parallels of 51° 15′ and 51° 40′ North latitude and the meridians of 1° 35′ and 3° 00′ East longitude.

The Southern limit of the area in the North Sea in which mines have been laid by the enemy is, so far as is known at present, the fifty-second parallel of North latitude.[2]

Remarks.—Although these limits are assigned to the dangerous areas, it must not be supposed that navigation is necessarily safe in any part of the southern waters of the North Sea.

Authority.—The Lords Commissioners of the Admiralty.

By Command of their Lordships,

J. F. PARRY,
Hydrographer.

HYDROGRAPHIC DEPARTMENT,
ADMIRALTY, LONDON.
9th October, 1914.

[1] Admiralty notices relating to proclaimed areas, as the British phrase is, and the war zones are very numerous and are very frequently canceled to be repeated with changes or additions. They include a series as to directions when approaching British ports, marine traffic regulations and pilotage, and restrictions to navigation relative to practically every port of the United Kingdom. The most important of such notices are published in the London *Gazette*, the Edinburgh *Gazette* for Scotland and the Dublin *Gazette* for Ireland.

Besides restricted areas, harbors and straits, a rectangular area in the Irish and North Channels is entirely forbidden to navigation. It is bounded on the northwest by a line joining the point Lat. 55° 22½′ N., Long. 6° 17′ W., with the point

b. Announcement of the Admiralty.

[*London Times, November 3, 1914, page 6.*]

During the last week the Germans have scattered mines indiscriminately in the open sea on the main trade route from America to Liverpool via the North of Ireland. Peaceful merchant ships have already been blown up with loss of life by this agency. The White Star Liner *Olympic* escaped disaster by pure good luck. But for the warnings given by British cruisers, other British and neutral merchant and passenger vessels would have been destroyed. These mines cannot have been laid by any German ship of war. They have been laid by some merchant vessel flying a neutral flag which has come along the trade route as if for the purposes of peaceful commerce, and, while profiting to the full by the immunity enjoyed by neutral merchant ships, has wantonly and recklessly endangered the lives of all who travel on the sea, regardless of whether they are friend or foe, civilian or military in character.

Mine-laying under a neutral flag and reconnaissance conducted by trawlers, hospital ships, and neutral vessels are the ordinary features of German naval warfare. In these circumstances, having regard to the great interests intrusted to the British Navy, to the safety of peaceful commerce on the high seas, and to the maintenance within the limits of international law of trade between neutral countries, the Admiralty feel it necessary to adopt exceptional measures appropriate to the novel conditions under which this war is being waged.

They therefore give notice that the whole of the North Sea must be considered a military area. Within this area merchant shipping of all kinds, traders of all countries, fishing craft, and all other vessels will be exposed to the gravest dangers from mines which it has been necessary to lay, and from warships searching vigilantly by night and day for suspicious craft. All merchant and fishing vessels of every description are hereby warned of the dangers they encounter by entering this area except in strict accordance with Admiralty directions. Every effort will be made to convey this warning to neutral countries and to vessels on the sea, but from the

Lat. 55° 31′ N., Long. 6° 02′ W.; and on the southwest by a line joining the point Lat. 55° 10½′ N., Long. 5° 24½′ W., with the point Lat. 55° 10½′ N., Long. 5° 24½′ W., with the point Lat. 55° 02′ N., Long. 5° 40½′ W. The other two sides join the points given. (*Notice to Mariners*, No. 137, Admiralty, February 22, 1915.)

[a] The notice of November 3, 1914, here reads: "The parallel of 51° 54′ North latitude and not as stated in the former notice; this extension is owing to the enemy's mines having drifted from their positions."

5th of November onward the Admiralty announce that all ships passing a line drawn from the northern point of the Hebrides through the Faroe Islands to Iceland do so at their own peril.

Ships of all countries wishing to trade to and from Norway, the Baltic, Denmark, and Holland are advised to come, if inward bound, by the English Channel and the Straits of Dover. There they will be given sailing directions which will pass them safely, so far as Great Britain is concerned, up the East Coast of England to Farn Island, whence a safe route will, if possible, be given to Lindesnaes Lighthouse. From this point they should turn north or south according to their destination, keeping as near the coast as possible. The converse applies to vessels outward bound. By strict adherence to these routes the commerce of all countries will be able to reach its destination in safety, so far as Great Britain is concerned, but any straying, even for a few miles from the course thus indicated, may be followed by fatal consequences.[1]

2. German Admiralty Proclamations.

a. Proclamation.

1. The waters surrounding Great Britain and Ireland including the whole English Channel are hereby declared to be war zone. On and after the 18th of February, 1915, every enemy merchant ship found in the said war zone will be destroyed without its being always possible to avert the danger threatening the crews and passengers on that account.

2. Even neutral ships are exposed to danger in the war zone as in view of the misuse of neutral flags ordered on January 31 by the British Government and of the accidents of naval war, it cannot always be avoided to strike even neutral ships in attacks that are directed at enemy ships.

3. Northward navigation around the Shetland Islands, in the eastern waters of the North Sea and in a strip of not less than 30 miles width along the Netherlands coast is in no danger.

VON POHL,
Chief of the Admiral Staff of the Navy.

Berlin, February 4, 1915.

[1] The same in essentials in U. S. Hydrographic Office, *Notice to Mariners*, No. 48 (3948), 1914.

b. MEMORIAL OF THE IMPERIAL GERMAN GOVERNMENT RESPECTING RETALIATORY MEASURES RENDERED NECESSARY BY THE MEANS EMPLOYED BY ENGLAND CONTRARY TO INTERNATIONAL LAW IN INTERCEPTING NEUTRAL MARITIME TRADE WITH GERMANY.

Since the commencement of the present war Great Britain's conduct of commercial warfare against Germany has been a mockery of all the principles of the law of nations. While the British Government have by several orders declared that their naval forces should be guided by the stipulations of the Declaration of London, they have in reality repudiated this Declaration in the most essential points, notwithstanding the fact that their own delegates at the Maritime Conference of London acknowledged its acts as forming part of existing international law. The British Government have placed a number of articles on the contraband list which are not at all, or only very indirectly, capable of use in warfare, and consequently cannot be treated as contraband either under the Declaration of London or under the generally acknowledged rules of international law. In addition, they have in fact obliterated the distinction between absolute and conditional contraband by confiscating all articles of conditional contraband destined for Germany, whatever may be the port where these articles are to be unloaded, and without regard to whether they are destined for uses of war or peace. They have not even hesitated to violate the Declaration of Paris, since their naval forces have captured on neutral ships German property which was not contraband of war. Furthermore, they have gone further than their own orders respecting the Declaration of London and caused numerous German subjects capable of bearing arms to be taken from neutral ships and made prisoners of war. Finally, they have declared the North Sea in its whole extent to be the seat of war, thereby rendering difficult and extremely dangerous, if not impossible, all navigation on the high seas between Scotland and Norway, so that they have in a way established a blockade of neutral coasts and ports, which is contrary to the elementary principles of generally accepted international law. Clearly all these measures are part of a plan to strike not only the German military operations, but also the economic system of Germany, and in the end to deliver the whole German people to reduction by famine, by intercepting legitimate neutral commerce by methods contrary to international law.

The neutral powers have in the main acquiesced in the measures of the British Government; in particular they have not been successful in securing the release by the British Government of the German subjects and German merchandise illegally taken from their vessels. To a certain extent they

have even contributed toward the execution of the measures adopted by England in defiance of the principle of the freedom of the seas by prohibiting the export and transit of goods destined for peaceable purposes in Germany, thus evidently yielding to pressure by England. The German Government have in vain called the attention of the neutral powers to the fact that Germany must seriously question whether it can any longer adhere to the stipulations of the Declaration of London, hitherto strictly observed by it, in case England continues to adhere to its practice, and the neutral powers persist in looking with indulgence upon all these violations of neutrality to the detriment of Germany. Great Britain invokes the vital interests of the British Empire which are at stake in justification of its violations of the law of nations, and the neutral powers appear to be satisfied with theoretical protests, thus actually admitting the vital interests of a belligerent as a sufficient excuse for methods of waging war of whatever description.

The time has come for Germany also to invoke such vital interests. It therefore finds itself under the necessity, to its regret, of taking military measures against England in retaliation of the practice followed by England. Just as England declared the whole North Sea between Scotland and Norway to be comprised within the seat of war, so does Germany now declare the waters surrounding Great Britain and Ireland, including the whole English Channel, to be comprised within the seat of war, and will prevent by all the military means at its disposal all navigation by the enemy in those waters. To this end it will endeavor to destroy, after February 18 next, any merchant vessels of the enemy which present themselves at the seat of war above indicated, although it may not always be possible to avert the dangers which may menace persons and merchandise. Neutral powers are accordingly forewarned not to continue to intrust their crews, passengers, or merchandise to such vessels. Their attention is furthermore called to the fact that it is of urgency to recommend to their own vessels to steer clear of these waters. It is true that the German Navy has received instructions to abstain from all violence against neutral vessels recognizable as such; but in view of the hazards of war, and of the misuse of the neutral flag ordered by the British Government, it will not always be possible to prevent a neutral vessel from becoming the victim of an attack intended to be directed against a vessel of the enemy. It is expressly declared that navigation in the waters north of the Shetland Islands is outside the danger zone, as well as navigation in the eastern part of the North Sea and in a zone thirty marine miles wide along the Dutch coast.

The German Government announces this measure at a time permitting enemy and neutral ships to make the necessary arrangements to reach the

ports situated at the seat of war. They hope that the neutral powers will accord consideration to the vital interests of Germany equally with those of England, and will on their part assist in keeping their subjects and their goods far from the seat of war; the more so since they likewise have a great interest in seeing the termination at an early day of the war now ravaging.

BERLIN, February 4, 1915.

c. EXTENSION TO SHETLAND AND ORKNEY ISLANDS.

BERLIN, February 23 (Wolff Bureau, unofficial) In consideration of the doubt which has arisen as to the extension northward of the waters around Great Britain indicated as a war zone in the official announcement of the 4th instant, it is communicated on authority that the Orkney Islands (as well as Kirkwall Harbor) and the Shetland Islands lie *within* the war zone, while on the other hand the passages on both sides of the Faroe Islands are not in danger.—*Frankfurter Zeitung, February 24, 1915.*

3. Belligerent Use of Neutral Flags.

a. THE SECRETARY OF STATE TO THE AMERICAN AMBASSADOR AT LONDON.

(TELEGRAM.)

DEPARTMENT OF STATE,
WASHINGTON, February 10, 1915.

AMERICAN AMBASSADOR, London:

The Department has been advised of the Declaration of the German Admiralty on February fourth, indicating that the British Government had on January thirty-first explicitly authorized the use of neutral flags on British merchant vessels presumably for the purpose of avoiding recognition by German naval forces. The Department's attention has also been directed to reports in the press that the captain of the *Lusitania*, acting upon orders or information received from the British authorities, raised the American flag as his vessel approached the British coasts, in order to escape anticipated attacks by German submarines. To-day's press reports also contain an alleged official statement of the Foreign Office defending the use of the flag of a neutral country by a belligerent vessel in order to escape capture or attack by an enemy.

Assuming that the foregoing reports are true the Government of the United States, reserving for future consideration the legality and propriety

of the deceptive use of the flag of a neutral power in any case for the purpose of avoiding capture, desires very respectfully to point out to His Britannic Majesty's Government the serious consequences which may result to American vessels and American citizens if this practice is continued.

The occasional use of the flag of a neutral or an enemy under the stress of immediate pursuit and to deceive an approaching enemy, which appears by the press reports to be represented as the precedent and justification used to support this action, seems to this Government a very different thing from an explicit sanction by a belligerent government for its merchant ships generally to fly the flag of a neutral power within certain portions of the high seas which are presumed to be frequented with hostile warships. The formal declaration of such a policy of general misuse of a neutral's flag jeopardizes the vessels of the neutral visiting those waters in a peculiar degree by raising the presumption that they are of belligerent nationality regardless of the flag which they may carry.

In view of the announced purpose of the German Admiralty to engage in active naval operations in certain delimited sea areas adjacent to the coasts of Great Britain and Ireland, the Government of the United States would view with anxious solicitude any general use of the flag of the United States by British vessels traversing those waters. A policy such as the one which His Majesty's Government is said to intend to adopt, would, if the declaration of the German Admiralty is put in force, it seems clear, afford no protection to British vessels, while it would be a serious and constant menace to the lives and vessels of American citizens.

The Government of the United States, therefore, trusts that His Majesty's Government will do all in their power to restrain vessels of British nationality from the deceptive use of the flag of the United States in the sea area defined in the German declaration, since such practice would greatly endanger the vessels of a friendly power navigating those waters and would even seem to impose upon the Government of Great Britain a measure of responsibility for the loss of American lives and vessels in case of an attack by a German naval force.

Please present a note to Sir Edward Grey in the sense of the foregoing and impress him with the grave concern which this Government feels in the circumstances in regard to the safety of American vessels and lives in the war zone declared by the German Admiralty.

You may add that this Government is making earnest representations to the German Government in regard to the danger to American vessels and citizens if the declaration of the German Admiralty is put into effect.

BRYAN.

b. MEMORANDUM COMMUNICATED BY SIR EDWARD GREY TO THE UNITED STATES AMBASSADOR, FEBRUARY 19, 1915.

THE memorandum communicated on the 11th February calls attention in courteous and friendly terms to the action of the captain of the British steamship *Lusitania* in raising the flag of the United States of America when approaching British waters, and says that the Government of the United States feel a certain anxiety in considering the possibility of any general use of the flag of the United States by British vessels traversing those waters, since the effect of such a policy might be to bring about a menace to the lives and vessels of United States citizens.

It was understood that the German Government had announced their intention of sinking British merchant vessels at sight by torpedoes without giving any opportunity of making any provision for saving the lives of noncombatant crews and passengers. It was in consequence of this threat that the *Lusitania* raised the United States flag on her inward voyage. On her subsequent outward voyage, a request was made by the United States passengers who were embarking on board her that the United States flag should be hoisted, presumably to insure their safety. Meanwhile the memorandum from your Excellency had been received; His Majesty's Government did not give any advice to the company as to how to meet this request; and it is understood that the *Lusitania* left Liverpool under the British flag.

It seems unnecessary to say more as regards the *Lusitania* in particular. In regard to the use of foreign flags by merchant vessels, the British merchant shipping act makes it clear that the use of the British flag by foreign merchant vessels is permitted in time of war for the purpose of escaping capture. It is believed that, in the case of some other nations, there is a similar recognition of the same practice with regard to their flags and that none have forbidden it. It would therefore be unreasonable to expect His Majesty's Government to pass legislation forbidding the use of foreign flags by British merchant vessels to avoid capture by the enemy. Now that the German Government have announced their intention to sink merchant vessels at sight, with their noncombatant crews, cargoes, and papers, a proceeding hitherto regarded by the opinion of the world not as war, but as piracy, it is felt that the United States Government could not fairly ask the British Government to order British merchant vessels to forego the means—always hitherto permitted—of escaping not only capture, but the much worse fate of sinking and destruction. Great Britain has always, when neutral, accorded to the vessels of other states at war liberty to use the British flag as a means of protection against capture, and instances are on record when United States vessels availed themselves of this facility during the American Civil War. It would be contrary to fair expectation if now, when the conditions are reversed, the United States and neutral nations were to grudge to British ships liberty to take similar action. The British Government have no intention of advising their merchant shipping to use foreign flags as a general practice or to resort to them otherwise than for escaping capture or destruction.

The obligation upon a belligerent warship to ascertain definitely for itself the nationality and character of a merchant vessel before capturing it, and *a fortiori* before sinking and destroying it, has been universally recognized. If that obligation is fulfilled, hoisting a neutral flag on board a British vessel cannot possibly endanger neutral shipping; and the British Government hold that, if loss to neutrals is caused by disregard of this obligation, it is upon the enemy vessel disregarding it and upon the Government giving orders that it should be disregarded that the sole responsibility for injury to neutrals ought to rest.

FOREIGN OFFICE, February 19, 1915.

4. The Secretary of State to the American Ambassador at Berlin.

(TELEGRAM.)

DEPARTMENT OF STATE,
WASHINGTON, February 10, 1915.

Please address a note immediately to the Imperial German Government to the following effect:

The Government of the United States, having had its attention directed to the proclamation of the German Admiralty issued on the fourth of February, that the waters surrounding Great Britain and Ireland, including the whole of the English Channel, are to be considered as comprised within the seat of war; that all enemy merchant vessels found in those waters after the eighteenth instant will be destroyed, although it may not always be possible to save crews and passengers; and that neutral vessels expose themselves to danger within this zone of war because, in view of the misuse of neutral flags said to have been ordered by the British Government on the thirty-first of January and of the contingencies of maritime warfare, it may not be possible always to exempt neutral vessels from attacks intended to strike enemy ships, feels it to be its duty to call the attention of the Imperial German Government, with sincere respect and the most friendly sentiments but very candidly and earnestly, to the very serious possibilities of the course of action apparently contemplated under that proclamation.

The Government of the United States views those possibilities with such grave concern that it feels it to be its privilege, and indeed its duty in the circumstances, to request the Imperial German Government to consider before action is taken the critical situation in respect of the relations between this country and Germany which might arise were the German naval forces, in carrying out the policy foreshadowed in the Admiralty's proclamation, to destroy any merchant vessel of the United States or cause the death of American citizens.

It is of course not necessary to remind the German Government that the sole right of a belligerent in dealing with neutral vessels on the high seas is limited to visit and search, unless a blockade is proclaimed and effectively maintained, which this Government does not understand to be proposed in this case. To declare or exercise a right to attack and destroy any vessel entering a prescribed area of the high seas without first certainly determining its belligerent nationality and the contraband character of its cargo would be an act so unprecedented in naval warfare that this Government is reluctant to believe that the Imperial Government of Germany in this case contemplates it as possible. The suspicion that enemy ships are using neutral flags improperly can create no just presumption that all ships traversing a prescribed area are subject to the same suspicion. It is to determine exactly such questions that this Government understands the right of visit and search to have been recognized.

This Government has carefully noted the explanatory statement issued by the Imperial German Government at the same time with the proclamation of the German Admiralty, and takes this occasion to remind the Imperial German Government very respectfully that the Government of the United States is open to none of the criticisms for unneutral action to which the German Government believe the governments of certain other neutral nations have laid themselves open; that the Government of the United States has not consented to or acquiesced in any measures which may have been taken by the other belligerent nations in the present war which operate to restrain neutral trade, but has, on the contrary, taken in all such matters a position which warrants it in holding those governments responsible in the proper way for any untoward effects upon American shipping which the accepted principles of international law do not justify; and that it, therefore, regards itself as free in the present instance to take with a clear conscience and upon accepted principles the position indicated in this note.

If the commanders of German vessels of war should act upon the presumption that the flag of the United States was not being used in good faith and should destroy on the high seas an American vessel or the lives of American citizens, it would be difficult for the Government of the United States to view the act in any other light than as an indefensible violation of neutral rights which it would be very hard indeed to reconcile with the friendly relations now so happily subsisting between the two governments.

If such a deplorable situation should arise, the Imperial German Government can readily appreciate that the Government of the United States would be constrained to hold the Imperial German Government to a strict accountability for such acts of their naval authorities and to take any steps

it might be necessary to take to safeguard American lives and property and to secure to American citizens the full enjoyment of their acknowledged rights on the high seas.

The Government of the United States, in view of these considerations, which it urges with the greatest respect and with the sincere purpose of making sure that no misunderstanding may arise and no circumstance occur that might even cloud the intercourse of the two governments, expresses the confident hope and expectation that the Imperial German Government can and will give assurance that American citizens and their vessels will not be molested by the naval forces of Germany otherwise than by visit and search, though their vessels may be traversing the sea area delimited in the proclamation of the German Admiralty.

It is added for the information of the Imperial Government that representations have been made to His Britannic Majesty's Government in respect to the unwarranted use of the American flag for the protection of British ships.

BRYAN.

5. The German Minister for Foreign Affairs to the American Ambassador at Berlin.

BERLIN, February 16, 1915.

In reference to the note of the twelfth instant, Foreign Office number twenty-two sixty, relative to the German measures respecting the theater of war in the waters surrounding England, the undersigned has the honor to reply to His Excellency the Ambassador of the United States, James W. Gerard, as follows:

The Imperial German Government have examined the communication of the Government of the United States in the same spirit of good will and friendship which seems to have prompted this communication.

The Imperial German Government are in entire accord with the Government of the United States that it is in the highest degree desirable for all parties to avoid the misunderstanding which might arise from the measures announced by the German Admiralty and to avert the intrusion of events calculated to interrupt the most friendly relations which have so happily existed between the two Governments up to this time.

On this assurance the German Government believe that they may depend on full understanding on the part of the United States, all the more because the action announced by the German Admiralty, as was dwelt upon at length in the note of the fourth instant, is in no wise directed against the legitimate

trade and navigation of neutral states, but merely represents an act of self-defense which Germany's vital interests force her to take against England's method of conducting maritime war in defiance of international law, which no protest on the part of neutrals has availed to bring into accordance with the legal status generally recognized before the outbreak of hostilities.

In order to exclude all possible doubt on this cardinal point the German Government beg to set forth once more the actual situation.

Up to now Germany has scrupulously observed the existing provisions of international law relative to maritime war. In particular she assented without delay to the proposal made by the American Government directly after the war began to ratify Declaration of London and embodied the contents thereof without change in her prize law, even without formally binding herself in this direction. The German Government have adhered to these provisions, even where they conflicted with military interests. Our Government at the same time have permitted the supply of food by Denmark to England until the present, although they could well have prevented this traffic by means of their naval forces.

In direct opposition to this, England has not shrunk from grave violations of international law wherever she could thereby cripple Germany's peaceable trade with neutral countries. It will not be necessary for the German Government to go into great detail on this point, especially since the American note to the British Government dated December twenty-eighth,[1] nineteen fourteen, which has been brought to their knowledge, has dealt with this point very aptly if not very exhaustively on the ground of the experiences of months.

It is conceded that the intention of all these aggressions is to cut off Germany from all supplies and thereby to deliver up to death by famine a peaceful civilian population, a procedure contrary to law of war and every dictate of humanity.

The neutrals have not been able to prevent this interception of different kinds of trade with Germany contrary to international law. It is true that the American Government have protested against England's procedure, and Germany is glad to acknowledge this, but in spite of this protest and the protests of the other neutral governments England has not allowed herself to be dissuaded from the course originally adopted. Thus, the American ship *Wilhelmina* was recently brought into port by England, although her cargo was destined solely for the civil population of Germany and was to be used only for this purpose according to an express declaration of the German Government.

[1] The note appears in Section IV, under date of December 26.

In this way the following has been created: Germany is to all intents and purposes cut off from oversea supplies with the toleration, tacit or protesting, of the neutrals regardless of whether it is a question of goods which are absolute contraband or only conditional contraband or not contraband at all, following the law generally recognized before the outbreak of the war. On the other hand England with the indulgence of neutral Governments is not only being provided with such goods as are not contraband or merely conditional contraband, namely, foodstuffs, raw material, et cetera, although these are treated by England when Germany is in question as absolute contraband, but also with goods which have been regularly and unquestionably acknowledged to be absolute contraband. The German Government believe that they are obliged to point out very particularly and with the greatest emphasis, that a trade in arms exists between American manufacturers and Germany's enemies which is estimated at many hundred million marks.

The German Government have given due recognition to the fact that as a matter of form the exercise of rights and the toleration of wrong on the part of neutrals is limited by their pleasure alone and involves no formal breach of neutrality. The German Government have not in consequence made any charge of formal breach of neutrality The German Government cannot, however, do otherwise, especially in the interest of absolute clearness in the relations between the two countries, than to emphasize that they, in common with the public opinion in Germany, feel themselves placed at a great disadvantage through the fact that the neutral powers have hitherto achieved no success or only an unmeaning success in their assertion of the right to trade with Germany, acknowledged to be legitimate by international law, whereas they make unlimited use of their right to tolerate trade in contraband with England and our other enemies. Conceded that it is the formal right of neutrals not to protect their legitimate trade with Germany and even to allow themselves knowingly and willingly to be induced by England to restrict such trade, it is on the other hand not less their good right, although unfortunately not exercised, to stop trade in contraband, especially the trade in arms, with Germany's enemies.

In view of this situation the German Government see themselves compelled, after six months of patience and watchful waiting, to meet England's murderous method of conducting maritime war with drastic counter measures. If England invokes the powers of famine as an ally in its struggle against Germany with the intention of leaving a civilized people the alternative of perishing in misery or submitting to the yoke of England's political and commercial will, the German Government are to-day determined to

take up the gauntlet and to appeal to the same grim ally. They rely on the neutrals who have hitherto tacitly or under protest submitted to the consequences, detrimental to themselves, of England's war of famine to display not less tolerance toward Germany, even if the German measures constitute new forms of maritime war, as has hitherto been the case with the English measures.

In addition to this, the German Government are determined to suppress with all the means at their disposal the supply of war material to England and her allies and assume at the same time that it is a matter of course that the neutral Governments which have hitherto undertaken no action against the trade in arms with Germany's enemies do not intend to oppose the forcible suppression of this trade by Germany.

Proceeding from these points of view the German Admiralty has declared the zone prescribed by it the seat of war; it will obstruct this area of maritime war by mines wherever possible and also endeavor to destroy the merchant vessels of the enemy in any other way.

It is very far indeed from the intention of the German Government, acting in obedience to these compelling circumstances, ever to destroy neutral lives and neutral property, but on the other hand they cannot be blind to the fact that dangers arise through the action to be carried out against England which menace without discrimination all trade within the area of maritime war. This applies as a matter of course to war mines which place any ship approaching a mined area in danger, even if the limits of international law are adhered to most strictly.

The German Government believe that they are all the more justified in the hope that the neutral powers will become reconciled with this, just as they have with the serious injury caused them thus far by England's measures, because it is their will to do everything in any way compatible with the accomplishment of their purpose for the protection of neutral shipping even within the area of maritime war.

They furnished the first proof of their good will by announcing the measures intended by them at a time not less than two weeks beforehand, in order to give neutral shipping an opportunity to make the necessary arrangements to avoid the threatening danger. The safest method of doing this is to stay away from the area of maritime war. Neutral ships entering the closed waters in spite of this announcement, given so far in advance, and which seriously impairs the accomplishment of the military purpose against England, bear their own responsibility for any unfortunate accidents. The German Government on their side expressly decline all responsibility for such accidents and their consequences.

Furthermore, the German Government announced merely the destruction of enemy merchant vessels found within the area of maritime war, and not the destruction of all merchant vessels, as the American Government appear to have erroneously understood. This limitation which the German Government have imposed upon themselves impairs the military purpose, especially since the presumption will prevail, even in the case of neutral ships, that they have contraband on board, in view of the interpretation of the idea of contraband in which the English Government have indulged as regards Germany and which the German Government will accordingly apply against England.

Naturally the Imperial Government are not willing to waive the right to establish the presence of contraband in the cargoes of neutral ships and, in cases requiring it, to take any action necessary on the grounds established. Finally the German Government are prepared to accord, in conjunction with the American Government, the most earnest consideration to any measure that might be calculated to insure the safety of legitimate shipping of neutrals within the seat of war. They cannot, however, overlook the fact that all efforts in this direction are considerably hampered by two circumstances: First, by the misuse of the neutral flag by English merchant vessels, which in the meantime has probably been established beyond a doubt by the American Government likewise. Second, by the above-mentioned trade in contraband, especially war materials, by neutral merchant vessels. In regard to the latter point, the German Government ventures to hope that the American Government upon reconsideration will see their way clear to a measure of intervention in accordance with the spirit of true neutrality.

As regards the first point, the secret order of the British Admiralty has already been communicated to the American Government by Germany. It recommends English merchant vessels to use neutral flags and has in the meantime been confirmed by a statement of the British Foreign Office which refers to the municipal law of England and characterizes such action as quite unobjectionable. The English merchant marine has followed this counsel without delay, as is probably known to the American Government, from the cases of the *Lusitania* and *Laertes*. Moreover, the British Government have armed English merchant vessels and instructed them to resist by force the German submarines. In these circumstances it is very difficult for the German submarines to recognize neutral merchant vessels as such, for even a search will not be possible in the majority of cases, since the attacks to be anticipated in the case of a disguised English ship would expose the commanders conducting a search and the boat itself to the danger of destruction.

The British Government would then be in a position to render the German measures illusory if their merchant marine persists in the misuse of neutral flags and neutral vessels are not marked in some other manner admitting of no possible doubt. Germany must, in the exigency into which she has unlawfully been forced, make her measures effective at all events in order thereby to compel her adversary to conduct maritime warfare in accordance with international law and thus to re-establish the freedom of the seas, which she has ever advocated and for which she is fighting likewise to-day.

The German Government, therefore, welcomes the fact that the American Government have made representations to the British Government relative to the use of their flag contrary to law and give expression to the expectation that this action will cause England to respect the American flag in future.

In this expectation the commanders of the German submarines have been instructed, as was already stated in the note of fourth instant, to abstain from violence to American merchant vessels when they are recognizable as such.

In order to meet in the safest manner all the consequences of mistaking an American for a hostile merchant vessel the German Government recommended that (although this would not apply in the case of danger from mines) the United States convoy their ships carrying peaceable cargoes and traversing the English seat of maritime war in order to make them recognizable. In this connection the German Government believe it should be made a condition that only such ships should be convoyed as carry no merchandise which would have to be considered as contraband according to the interpretation applied by England against Germany. The German Government are prepared to enter into immediate negotiations with the American Government relative to the manner of convoy. They would, however, be particularly grateful if the American Government would urgently advise their merchant vessels to avoid the English seat of maritime war, at any rate until the flag question is settled.

The German Government resign themselves to the confident hope that the American Government will recognize the full meaning of the severe struggle which Germany is conducting for her very existence and will gain full understanding of the reasons which prompt Germany and the aims of the measures announced by her from the above explanations and promises.

The German Government repeat that in the scrupulous consideration for neutrals hitherto practiced by them they have determined upon the measures planned only under the strongest compulsion of national self-preservation. Should the American Government at the eleventh hour succeed in removing, by virtue of the weight which they have the right and ability to throw into the scales of the fate of peoples, the reasons which have made it

the imperative duty of the German Government to take the action indicated, should the American Government in particular find a way to bring about the observation of the Declaration of London on the part of the Powers at war with Germany and thereby to render possible for Germany the legitimate supply of foodstuffs and industrial raw materials, the German Government would recognize this as a service which could not be too highly estimated in favor of more humane conduct of war and would gladly draw the necessary conclusions from the new situation thus created.

The undersigned requests the Ambassador to bring the above to the attention of the American Government and avails himself of the opportunity to renew, et cetera.

VON JAGOW.

6. The Secretary of State to the American Ambassador at London.

DEPARTMENT OF STATE,
WASHINGTON, February 20, 1915.

No. 1169.]

You will please deliver to Sir Edward Grey the following identic note which we are sending England and Germany:

In view of the correspondence which has passed between this Government and Great Britain and Germany respectively, relative to the declaration of a war zone by the German Admiralty, and the use of neutral flags by British merchant vessels, this Government ventures to express the hope that the two belligerent Governments may, through reciprocal concessions, find a basis for agreement which will relieve neutral ships engaged in peaceful commerce from the great dangers which they will incur on the high seas adjacent to the coasts of the belligerents.

The Government of the United States respectfully suggests that an agreement in terms like the following might be entered into. This suggestion is not to be regarded as in any sense a proposal made by this Government, for it of course fully recognizes that it is not its privilege to propose terms of agreement between Great Britain and Germany, even though the matter be one in which it and the people of the United States are directly and deeply interested. It is merely venturing to take the liberty which it hopes may be accorded a sincere friend desirous of embarrassing neither nation involved and of serving, if it may, the common interests of humanity. The course outlined is offered in the hope that it may draw forth the views and elicit the suggestions of the British and German Governments on a matter of capital interest to the whole world.

Germany and Great Britain to agree:

1. That neither will sow any floating mines, whether upon the high seas or in territorial waters; that neither will plant on the high seas anchored mines except within cannon range of harbors for defensive purposes only; and that all mines shall bear the stamp of the Government planting them and be so constructed as to become harmless if separated from their moorings.

2. That neither will use submarines to attack merchant vessels of any nationality except to enforce the right of visit and search.

3. That each will require their respective merchant vessels not to use neutral flags for the purpose of disguise or *ruse de guerre*.

Germany to agree:

That all importations of food or foodstuffs from the United States (and from such other neutral countries as may ask it) into Germany shall be consigned to agencies to be designated by the United States Government; that these American agencies shall have entire charge and control, without interference on the part of the German Government, of the receipt and distribution of such importations, and shall distribute them solely to retail dealers bearing licenses from the German Government entitling them to receive and furnish such food and foodstuffs to noncombatants only; that any violation of the terms of the retailers' licenses shall work a forfeiture of their rights to receive such food and foodstuffs for this purpose; and that such food and foodstuffs will not be requisitioned by the German Government for any purpose whatsoever or be diverted to the use of the armed forces of Germany.

Great Britain to agree:

That food and foodstuffs will not be placed upon the absolute contraband list and that shipments of such commodities will not be interfered with or detained by British authorities if consigned to agencies designated by the United States Government in Germany for the receipt and distribution of such cargoes to licensed German retailers for distribution solely to the noncombatant population.

In submitting this proposed basis of agreement this Government does not wish to be understood as admitting or denying any belligerent or neutral right established by the principles of international law, but would consider the agreement, if acceptable to the interested powers, a *modus vivendi* based upon expediency rather than legal right and as not binding upon the United States either in its present form or in a modified form until accepted by this Government.

BRYAN.

7. Declaration presented to the Governments of Argentina, Brazil, Chile, Denmark, Greece, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, United States, and Uruguay by the British and French representatives at the respective capitals.

(TELEGRAM.)

GERMANY has declared that the English Channel, the north and west coasts of France, and the waters round the British Isles are a "war area," and has officially notified that "all enemy ships found in that area will be destroyed, and that neutral vessels may be exposed to danger." This is in effect a claim to torpedo at sight, without regard to the safety of the crew or passengers, any merchant vessel under any flag. As it is not in the power of the German Admiralty to maintain any surface craft in these waters, this attack can only be delivered by submarine agency.

The law and custom of nations in regard to attacks on commerce have always presumed that the first duty of the captor of a merchant vessel is to bring it before a prize court, where it may be tried, where the regularity of the capture may be challenged, and where neutrals may recover their cargoes. The sinking of prizes is in itself a questionable act, to be resorted to only in extraordinary circumstances and after provision has been made for the safety of all the crew or passengers (if there are passengers on board). The responsibility for discriminating between neutral and enemy vessels, and between neutral and enemy cargo, obviously rests with the attacking ship, whose duty it is to verify the status and character of the vessel and cargo, and to preserve all papers before sinking or even capturing it. So also is the humane duty of providing for the safety of the crews of merchant vessels, whether neutral or enemy, an obligation upon every belligerent. It is upon this basis that all previous discussions of the law for regulating warfare at sea have proceeded.

A German submarine, however, fulfills none of these obligations. She enjoys no local command of the waters in which she operates. She does not take her captures within the jurisdiction of a prize court. She carries no prize crew which she can put on board a prize. She uses no effective means of discriminating between a neutral and an enemy vessel. She does not receive on board for safety the crew and passengers of the vessel she sinks. Her methods of warfare are therefore entirely outside the scope of any of the international instruments regulating operations against commerce in time of war. The German declaration substitutes indiscriminate destruction for regulated capture.

Germany is adopting these methods against peaceful traders and noncombatant crews with the avowed object of preventing commodities of all kinds (including food for the civil population) from reaching or leaving the British Isles or northern France. Her opponents are, therefore, driven to frame retaliatory measures in order in their turn to prevent commodities of any kind from reaching or leaving Germany. These measures will, however, be enforced by the British and French Governments without risk to neutral ships or to neutral or noncombatant life, and in strict observance of the dictates of humanity.

The British and French Governments will therefore hold themselves free to detain and take into port ships carrying goods of presumed enemy destination, ownership, or origin. It is not intended to confiscate such vessels or cargoes unless they would otherwise be liable to condemnation.

The treatment of vessels and cargoes which have sailed before this date will not be affected.

MARCH 1, 1915.

8. German Minister for Foreign Affairs to the American Ambassador.

(TELEGRAM.)

BERLIN, March 1, 1915.

The undersigned has the honor to inform his Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the note of the 22d instant, that the Imperial German Government have taken note with great interest of the suggestion of the American Government that certain principles for the conduct of maritime war on the part of Germany and England be agreed upon for the protection of neutral shipping. They see therein new evidence of the friendly feelings of the American Government toward the German Government which are fully reciprocated by Germany.

It is in accordance with Germany's wishes also to have maritime war conducted according to rules which without discriminately restricting one or the other of the belligerent powers in the use of their means of warfare are equally considerate of the interests of neutrals and the dictates of humanity. Consequently it was intimated in the German note of the 16th instant that observation of the Declaration of London on the part of Germany's adversaries would create a new situation from which the German Government would gladly draw the proper conclusions.

Proceeding from this view, the German Government have carefully examined the suggestion of the American Government and believe that

they can actually see in it a suitable basis for the practical solution of the questions which have arisen.

With regard to the various points of the American note they beg to make the following remarks:

1. With regard to the sowing of mines, the German Government would be willing to agree as suggested not to use floating mines and to have anchored mines constructed as indicated. Moreover, they agree to put the stamp of the Government on all mines to be planted. On the other hand, it does not appear to them to be feasible for the belligerents wholly to forego the use of anchored mines for offensive purposes.

2. The German Government would undertake not to use their submarines to attack mercantile of any flag except when necessary to enforce the right of visit and search. Should the enemy nationality of the vessel or the presence of contraband be ascertained, submarine would proceed in accordance with the general rules of international law.

3. As provided in the American note, this restriction of the use of the submarines is contingent on the fact that enemy mercantile abstain from the use of the neutral flag and other neutral distinctive marks. It would appear to be a matter of course that such mercantile also abstain from arming themselves and from all resistance by force, since such procedure contrary to international law would render impossible any action of the submarines in accordance with international law.

4. The regulation of legitimate importations of food into Germany suggested by the American Government appears to be in general acceptable. Such regulation would, of course, be confined to importations by sea, but that would on the other hand include indirect importations by way of neutral ports. The German Government would, therefore, be willing to make the declarations of the nature provided in the American note so that the use of the imported food and foodstuffs solely by the noncombatant population would be guaranteed. The Imperial Government must, however, in addition (* * *)[1] having the importation of other raw material used by the economic system of noncombatants including forage permitted. To that end the enemy governments would have to permit the free entry into Germany of the raw material mentioned in the free list of the Declaration of London, and to treat materials included in the list of conditional contraband according to the same principles as food and foodstuffs.

The German Government venture to hope that the agreement for which the American Government have paved the way, may be reached after due

[1] Apparent omission.

consideration of the remarks made above, and that in this way peaceable neutral shipping and trade will not have to suffer any more than is absolutely necessary from the unavoidable effects of maritime war. These effects could be still further reduced if, as was pointed out in the German note of the 16th instant, some way could be found to exclude the shipping of munitions of war from neutral countries to belligerents on ships of any nationality.

The German Government must, of course, reserve a definite statement of their position until such time as they may receive further information from the American Government enabling them to see what obligations the British Government are on their part willing to assume.

The undersigned avails himself of this occasion, &c.

VON JAGOW.

Dated, Foreign Office, Berlin, February 28, 1915.

GERARD.

9. The Secretary of State to the American Ambassador at London.

(TELEGRAM.)

DEPARTMENT OF STATE,
WASHINGTON, March 5, 1915.

No. 1233.]

In regard to the recent communications received from the British and French Governments concerning restraints upon commerce with Germany, please communicate with the British Foreign Office in the sense following:

The difficulty of determining action upon the British and French declarations of intended retaliation upon commerce with Germany lies in the nature of the proposed measures in their relation to commerce by neutrals.

While it appears that the intention is to interfere with and take into custody all ships both outgoing and incoming, trading with Germany, which is in effect a blockade of German ports, the rule of blockade, that a ship attempting to enter or leave a German port, regardless of the character of its cargo may be condemned, is not asserted.

The language of the declaration is "the British and French Governments will, therefore, hold themselves free to detain and take into port ships carrying goods of presumed enemy destination, ownership, or origin. It is not intended to confiscate such vessels or cargoes unless they would otherwise be liable to condemnation."

The first sentence claims a right pertaining only to a state of blockade. The last sentence proposes a treatment of ships and cargoes as if no

blockade existed. The two together present a proposed course of action previously unknown to international law.

As a consequence neutrals have no standard by which to measure their rights or to avoid danger to their ships and cargoes. The paradoxical situation thus created should be changed and the declaring powers ought to assert whether they rely upon the rules governing a blockade or the rules applicable when no blockade exists.

The declaration presents other perplexities.

The last sentence quoted indicates that the rules of contraband are to be applied to cargoes detained. The rule covering noncontraband articles carried in neutral bottoms is that the cargoes shall be released and the ships allowed to proceed. This rule cannot, under the first sentence quoted, be applied as to destination. What then is to be done with a cargo of noncontraband goods detained under the declaration? The same question may be asked as to conditional contraband cargoes.

The foregoing comments apply to cargoes destined for Germany. Cargoes coming out of German ports present another problem under the terms of the declaration. Under the rules governing enemy exports only goods owned by enemy subjects in enemy bottoms are subject to seizure and condemnation. Yet by the declaration it is purposed to seize and take into port all goods of enemy "ownership and origin." The word "origin" is particularly significant. The origin of goods destined to neutral territory on neutral ships is not, and never has been, a ground for forfeiture except in case a blockade is declared and maintained. What then would the seizure amount to in the present case except to delay the delivery of the goods? The declaration does not indicate what disposition would be made of such cargoes if owned by a neutral or if owned by an enemy subject. Would a different rule be applied according to ownership? If so, upon what principles of international law would it rest? And upon what rule, if no blockade is declared and maintained, could the cargo of a neutral ship sailing out of a German port be condemned? If it is not condemned, what other legal course is there but to release it?

While this Government is fully alive to the possibility that the methods of modern naval warfare, particularly in the use of submarine for both defensive and offensive operations, may make the former means of maintaining a blockade a physical impossibility, it feels that it can be urged with great force that there should be also some limit to "the radius of activity," and especially so if this action by the belligerents can be construed to be a blockade. It would certainly create a serious state of affairs if, for example, an American vessel laden with a cargo of German origin

should escape the British patrol in European waters only to be held up by a cruiser off New York and taken into Halifax.

Similar cablegram sent to Paris.

BRYAN.

10. The American Ambassador at Paris to the Secretary of State.

(TELEGRAM.)

AMERICAN EMBASSY,
PARIS, March 14, 1915.

French Government replies as follows:

"In a letter dated March 7, your Excellency was good enough to draw my attention to the views of the Government of the United States regarding the recent communications from the French and British Governments concerning a restriction to be laid upon commerce with Germany. According to your Excellency's letter, the declaration made by the allied Governments presents some uncertainty as regards its application, concerning which the Government of the United States desires to be enlightened in order to determine what attitude it should take.

"At the same time your Excellency notified me that while granting the possibility of using new methods of retaliation against the new use to which submarines have been put, the Government of the United States was somewhat apprehensive that the allied belligerents might (if their action is to be construed as constituting a blockade) capture in waters near America any ships which might have escaped the cruisers patrolling European waters. In acknowledging receipt of your Excellency's communication, I have the honor to inform you that the Government of the Republic has not failed to consider this point as presented by the Government of the United States, and I beg to specify clearly the conditions of application, as far as my Government is concerned, of the declaration of the allied Governments. As well set forth by the Federal Government the old methods of blockade cannot be entirely adhered to in view of the use Germany has made of her submarines, and also by reason of the geographical situation of that country. In answer to the challenge to the neutrals as well as to its own adversaries, contained in the declaration, by which the German Imperial Government stated that it considered the seas surrounding Great Britain and the French coast on the Channel as a military zone, and warned neutral vessels not to enter the same on account of the danger they would run, the allied Governments have been obliged to examine what measures they could adopt to interrupt all maritime communication with the German Empire and thus

keep it blockaded by the naval power of the two allies, at the same time, however, safeguarding as much as possible the legitimate interests of neutral powers, and respecting the laws of humanity which no crime of their enemy will induce them to violate.

"The Government of the Republic, therefore, reserves to itself the right of bringing into a French or allied port any ship carrying a cargo presumed to be of German origin, destination, or ownership, but it will not go to the length of seizing any neutral ship except in case of contraband. The discharged cargo shall not be confiscated. In the event of a neutral proving his lawful ownership of merchandise destined to Germany, he shall be entirely free to dispose of same, subject to certain conditions. In case the owner of the goods is a German they shall simply be sequestrated during the war.

"Merchandise of enemy origin shall only be sequestrated when it is at the same time the property of an enemy; merchandise belonging to neutrals shall be held at the disposal of its owner to be returned to the port of departure.

"As your Excellency will observe, these measures, while depriving the enemy of important resources, respect the rights of neutrals and will not in any way jeopardize private property, as even the enemy owner will only suffer from the suspension of the enjoyment of his rights during the term of hostilities.

"The Government of the Republic, being desirous of allowing neutrals every facility to enforce their claims, has decided to give the prize court (an independent tribunal) cognizance of these questions, and in order to give the neutrals as little trouble as possible it has specified that the prize court shall give sentence within eight days, counting from the date on which the case shall have been brought before it.

"I do not doubt, Mr. Ambassador, that the Federal Government, comparing on the one hand the unspeakable violence with which the German military government threatens neutrals, the criminal actions unknown in maritime annals already perpetrated against neutral property and ships and even against the lives of neutral subjects or citizens, and on the other hand the measures adopted by the allied Governments of France and Great Britain respecting the laws of humanity and the rights of individuals, will readily perceive that the latter have not overstepped their strict rights as belligerents.

"Finally, I am anxious to assure you that it is not and it has never been the intention of the Government of the Republic to extend the action of its cruisers against enemy merchandise beyond European seas, the Mediterranean included."

SHARP.

11. Memorandum handed by the British Secretary of State for Foreign Affairs to the American Ambassador.

ON the 22nd February last I received a communication from your Excellency of the identic note addressed to His Majesty's Government and to Germany respecting an agreement on certain points as to the conduct of the war at sea.

The reply of the German Government to this note has been published, and it is not understood from the reply that the German Government are prepared to abandon the practice of sinking British merchant vessels by submarines; and it is evident from their reply that they will not abandon the use of mines for offensive purposes on the high seas, as contrasted with the use of mines for defensive purposes only, within cannon range of their own harbors, as suggested by the Government of the United States.

This being so, it might appear unnecessary for the British Government to make any further reply than to take note of the German answer. We desire, however, to take the opportunity of making a fuller statement of the whole position, and of our feeling with regard to it.

We recognize with sympathy the desire of the Government of the United States to see the European War conducted in accordance with the previously recognized rules of international law and the dictates of humanity. It is thus that the British forces have conducted the war, and we are not aware that these forces, either naval or military, can have laid to their charge any improper proceedings, either in the conduct of hostilities or in the treatment of prisoners or wounded.

On the German side it has been very different:

1. The treatment of civilian inhabitants in Belgium and the north of France has been made public by the Belgian and French Governments, and by those who have had experience of it at first hand. Modern history affords no precedent for the sufferings that have been inflicted on the defenseless and noncombatant population in the territory that has been in German military occupation. Even the food of the population was confiscated, until in Belgium an International Commission, largely influenced by American generosity and conducted under American auspices, came to the relief of the population, and secured from the German Government a promise to spare what food was still left in the country, though the Germans still continue to make levies in money upon the defenseless population for the support of the German army.

2. We have from time to time received most terrible accounts of the barbarous treatment to which British officers and soldiers have been exposed after they have been taken prisoner, while being conveyed to German prison camps. One or two instances have already been given to the United States Government, founded upon authentic and first-hand evidence, which is beyond doubt. Some evidence has been received of the hardships to which British prisoners of war are subjected in the prison camps, contrasting, we believe, most unfavorably with the treatment of German prisoners in this country. We have proposed, with the consent of the United States Government, that a commission of United States officers should be permitted in each country to inspect the treatment of prisoners of war. The United States Government have been unable to obtain any reply from the German Government to this proposal, and we remain in continuing anxiety and apprehension as to the treatment of British prisoners of war in Germany.[1]

3. At the very outset of war a German mine layer was discovered laying a mine field on the high seas. Further mine fields have been laid from time to time without warning, and, so far as we know, are still being laid on the high seas, and many neutral as well as British vessels have been sunk by them.

4. At various times during the war German submarines have stopped and sunk British merchant vessels, thus making the sinking of merchant vessels a general practice, though it was admitted previously, if at all, only as an exception, the general rule, to which the British Government have adhered, being that merchant vessels, if captured, must be taken before a prize court. In one case, already quoted in a note to the United States Government, a neutral vessel carrying foodstuffs to an unfortified town in Great Britain has been sunk.[2] Another case is now reported in which a German armed cruiser has sunk an American vessel, the *William P. Frye*, carrying a cargo of wheat from Seattle to Queenstown. In both cases the

[1] Correspondence through American diplomatic channels relative to the treatment of British prisoners of war and interned civilians in Germany may be found in Parl. Pap., Miscellaneous, No. 7 (1915), and Miscellaneous, No. 11 (1915), Cd. 7817 and 7861 respectively. No. 11, published subsequently to the above memorandum, shows that the Imperial German Foreign Office by April 3 had effected "an arrangement agreeable to the German Government, whereby American diplomatic chiefs of mission and members of their staffs or consular officials whom they appoint may at all times visit camps where enemy prisoners of war under their protection are interned." The same paper contains extended reports from American investigators, as do two later ones, Miscellaneous, Nos. 12 and 14, Cd. 7862 and 7959.

[2] See Part V, No. 2, paragraph 5.

cargoes were presumably destined for the civil population. Even the cargoes in such circumstances should not have been condemned without the decision of a prize court, much less should the vessels have been sunk. It is to be noted that both these cases occurred before the detention by the British authorities of the *Wilhelmina* and her cargo of foodstuffs, which the German Government allege is the justification for their own action. The Germans have announced their intention of sinking British merchant vessels by torpedo without notice and without any provision for the safety of the crew. They have already carried out this intention in the case of neutral, as well as of British vessels, and a number of noncombatant and innocent lives on British vessels, unarmed and defenseless, have been destroyed in this way.

5. Unfortified, open, and defenseless towns, such as Scarborough, Yarmouth, and Whitby, have been deliberately and wantonly bombarded by German ships of war, causing in some cases considerable loss of civilian life, including women and children.

6. German aircraft have dropped bombs on the east coast of England where there were no military or strategic points to be attacked

On the other hand, I am aware of but two criticisms that have been made on British action in all these respects:

1. It is said that the British naval authorities also have laid some anchored mines on the high seas. They have done so; but the mines were anchored and so constructed that they would be harmless if they went adrift, and no mines whatever were laid by the British naval authorities till many weeks after the Germans had made a regular practice of laying mines on the high seas.

2. It is said that the British Government have departed from the view of international law, which they had previously maintained, that foodstuffs destined for the civil population should never be interfered with, this charge being founded on the submission to a prize court of the cargo of the *Wilhelmina*. The special considerations affecting this cargo have already been presented in a memorandum to the United States Government, and I need not repeat them here. Inasmuch as the stoppage of all foodstuffs is an admitted consequence of blockade, it is obvious that there can be no universal rule, based on considerations of morality and humanity, which is contrary to this practice. The right to stop foodstuffs destined for the civil population must, therefore, in any case be admitted if an effective "cordon" controlling intercourse with the enemy is drawn, announced, and maintained. Moreover, independently of rights arising from belligerent action in the nature of blockade, some other nations, differing from the

opinion of the Governments of the United States and Great Britain, have held that to stop the food of the civil population is a natural and legitimate method of bringing pressure to bear on an enemy country, as it is upon the defense of a besieged town. It is also upheld on the authority of both Prince Bismarck and Count Caprivi, and therefore presumably is not repugnant to German morality. The following are the quotations from Prince Bismarck and Count Caprivi on this point. Prince Bismarck, in answering in 1885 an application from the Kiel Chamber of Commerce for a statement of the view of the German Government on the question of the right to declare as contraband foodstuffs that were not intended for military forces, said:

"I reply to the Chamber of Commerce that any disadvantage our commercial and carrying interests may suffer by the treatment of rice as contraband of war does not justify our opposing a measure which it has been thought fit to take in carrying on a foreign war. Every war is a calamity which entails evil consequences, not only on the combatants but also on neutrals. These evils may easily be increased by the interference of a neutral Power with the way in which a third carries on the war, to the disadvantage of the subjects of the interfering Power, and by this means German commerce might be weighted with far heavier losses than a transitory prohibition of the rice trade in Chinese waters. The measure in question has for its object the shortening of the war by increasing the difficulties of the enemy, and is a justifiable step in war if impartially enforced against all neutral ships."

Court Caprivi, during a discussion in the German Reichstag on the 4th March, 1892, on the subject of the importance of international protection for private property at sea, made the following statements: "A country may be dependent for her food or for her raw produce upon her trade, in fact, it may be absolutely necessary to destroy the enemy's trade. . . . The private introduction of provisions into Paris was prohibited during the siege, and in the same way a nation would be justified in preventing the import of food and raw produce."

The Government of Great Britain have now frankly declared, in concert with the Government of France, their intention to meet the German attempt to stop all supplies of every kind from leaving or entering British or French ports by themselves stopping supplies going to or from Germany. For this end, the British fleet has instituted a blockade, effectively controlling by cruiser "cordon" all passage to and from Germany by sea. The difference between the two policies is, however, that, while our object is the same as that of Germany, we propose to attain it without

sacrificing neutral ships or noncombatant lives, or inflicting upon neutrals the damage that must be entailed when a vessel and its cargo are sunk without notice, examination, or trial.

I must emphasize again that this measure is a natural and necessary consequence of the unprecedented methods, repugnant to all law and morality which have been described above, which Germany began to adopt at the very outset of the war, and the effects of which have been constantly accumulating.

FOREIGN OFFICE, March 13, 1915.

12. The British Secretary of State for Foreign Affairs to the American Ambassador.

FOREIGN OFFICE, March 15, 1915.

Sir,

1. HIS Majesty's Government have had under careful consideration the inquiries which, under instructions from your Government, your Excellency addressed to me on the 8th instant regarding the scope and mode of application of the measures, foreshadowed in the British and French declarations of the 1st March, for restricting the trade of Germany. Your Excellency explained, and illustrated by reference to certain contingencies, the difficulty of the United States Government in adopting a definite attitude toward these measures, by reason of uncertainty regarding their bearing upon the commerce of neutral countries.

2. I can at once assure your Excellency that, subject to the paramount necessity of restricting German trade, His Majesty's Government have made it their first aim to minimize inconvenience to neutral commerce. From the accompanying copy of the order in council, which is to be published to-day, you will observe that a wide discretion is afforded to the prize court in dealing with the trade of neutrals in such manner as may in the circumstances be deemed just, and that full provision is made to facilitate claims by persons interested in any goods placed in the custody of the marshal of the prize court under the order. I apprehend that the perplexities to which your Excellency refers will for the most part be dissipated by the perusal of this document, and that it is only necessary for me to add certain explanatory observations.

3. The effect of the order in council is to confer certain powers upon the executive officers of His Majesty's Government. The extent to which those powers will be actually exercised, and the degree of severity with which

the measures of blockade authorized will be put into operation, are matters which will depend on the administrative orders issued by the Government and the decisions of the authorities specially charged with the duty of dealing with individual ships and cargoes, according to the merits of each case. The United States Government may rest assured that the instructions to be issued by His Majesty's Government to the fleet, and to the customs officials and executive committees concerned, will impress upon them the duty of acting with the utmost dispatch consistent with the object in view and of showing in every case such consideration for neutrals as may be compatible with that object, which is, succinctly stated, to establish a blockade to prevent vessels from carrying goods for, or coming from, Germany.

4. His Majesty's Government have felt most reluctant at the moment of initiating a policy of blockade to exact from neutral ships all the penalties attaching to a breach of blockade. In their desire to alleviate the burden which the existence of a state of war at sea must inevitably impose on neutral sea-borne commerce, they declare their intention to refrain altogether from the exercise of the right to confiscate ships or cargoes which belligerents have always claimed in respect of breaches of blockade. They restrict their claim to the stopping of cargoes destined for or coming from the enemy's territory.

5. As regards cotton, full particulars of the arrangements contemplated have already been explained. It will be admitted that every possible regard has been had to the legitimate interests of the American cotton trade.

6. Finally, in reply to the penultimate paragraph of your Excellency's note, I have the honor to state that it is not intended to interfere with neutral vessels carrying enemy cargo of noncontraband nature outside European waters, including the Mediterranean.

I have, &c.

E. GREY.

Enclosure in No. 12.

AT THE COURT AT BUCKINGHAM PALACE, THE 11TH DAY OF MARCH, 1915.

Present,

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS the German Government has issued certain orders which, in violation of the usages of war, purport to declare the waters surrounding the United Kingdom a military area, in which all British and allied merchant

vessels will be destroyed, irrespective of the safety of the lives of passengers and crew, and in which neutral shipping will be exposed to similar danger in view of the uncertainties of naval warfare;

AND WHEREAS in a memorandum accompanying the said orders neutrals are warned against intrusting crews, passengers, or goods to British or allied ships;

AND WHEREAS such attempts on the part of the enemy give to His Majesty an unquestionable right of retaliation;

AND WHEREAS His Majesty has therefore decided to adopt further measures in order to prevent commodities of any kind from reaching or leaving Germany, though such measures will be enforced without risk to neutral ships or to neutral or noncombatant life, and in strict observance of the dictates of humanity;

AND WHEREAS the allies of His Majesty are associated with him in the steps now to be announced for restricting further the commerce of Germany:

His Majesty is therefore pleased, by and with the advice of his Privy Council, to order and it is hereby ordered as follows:

I. No merchant vessel which sailed from her port of departure after the 1st March, 1915, shall be allowed to proceed on her voyage to any German port.

Unless the vessel receives a pass enabling her to proceed to some neutral or allied port to be named in the pass, goods on board any such vessel must be discharged in a British port and placed in the custody of the marshal of the prize court. Goods so discharged, not being contraband of war, shall, if not requisitioned for the use of His Majesty, be restored by order of the court, upon such terms as the court may in the circumstances deem to be just, to the person entitled thereto.

II. No merchant vessel which sailed from any German port after the 1st March, 1915, shall be allowed to proceed on her voyage with any goods on board laden at such port.

All goods laden at such port must be discharged in a British or allied port. Goods so discharged in a British port shall be placed in the custody of the marshal of the prize court, and, if not requisitioned for the use of His Majesty, shall be detained or sold under the direction of the prize court. The proceeds of goods so sold shall be paid into court and dealt with in such manner as the court may in the circumstances deem to be just.

Provided, that no proceeds of the sale of such goods shall be paid out of court until the conclusion of peace, except on the application of the proper officer of the Crown, unless it be shown that the goods had become neutral property before the issue of this order.

Provided also, that nothing herein shall prevent the release of neutral property laden at such enemy port on the application of the proper officer of the Crown.

III. Every merchant vessel which sailed from her port of departure after the 1st March, 1915, on her way to a port other than a German port, carrying goods with an enemy destination, or which are enemy property, may be required to discharge such goods in a British or allied port. Any goods so discharged in a British port shall be placed in the custody of the marshal of the prize court, and, unless they are contraband of war, shall, if not requisitioned for the use of His Majesty, be restored by order of the court, upon such terms as the court may in the circumstances deem to be just, to the person entitled thereto.

Provided, that this article shall not apply in any case falling within Articles II or IV of this order.

IV. Every merchant vessel which sailed from a port other than a German port after the 1st March, 1915, having on board goods which are of enemy origin or are enemy property may be required to discharge such goods in a British or allied port. Goods so discharged in a British port shall be placed in the custody of the marshal of the prize court, and, if not requisitioned for the use of His Majesty, shall be detained or sold under the direction of the prize court. The proceeds of goods so sold shall be paid into court and dealt with in such manner as the court may in the circumstances deem to be just.

Provided, that no proceeds of the sale of such goods shall be paid out of court until the conclusion of peace except on the application of the proper officer of the Crown, unless it be shown that the goods had become neutral property before the issue of this order.

Provided also, that nothing herein shall prevent the release of neutral property of enemy origin on the application of the proper officer of the Crown.

V.—(1) Any person claiming to be interested in, or to have any claim in respect of, any goods (not being contraband of war) placed in the custody of the marshal of the prize court under this order, or in the proceeds of such goods, may forthwith issue a writ in the prize court against the proper officer of the Crown and apply for an order that the goods should be restored to him, or that their proceeds should be paid to him, or for such other order as the circumstances of the case may require.

(2) The practice and procedure of the prize court shall, so far as applicable, be followed *mutatis mutandis* in any proceedings consequential upon this order.

VI. A merchant vessel which has cleared for a neutral port from a British or allied port, or which has been allowed to pass having an ostensible destination to a neutral port, and proceeds to an enemy port, shall, if captured on any subsequent voyage, be liable to condemnation.

VII. Nothing in this order shall be deemed to affect the liability of any vessel or goods to capture or condemnation independently of this order.

VIII. Nothing in this order shall prevent the relaxation of the provisions of this order in respect of the merchant vessels of any country which declares that no commerce intended for or originating in Germany or belonging to German subjects shall enjoy the protection of its flag.

ALMERIC FITZROY.

13. Decree of the French Republic relative to Commerce with Germany.

a. REPORT TO THE PRESIDENT OF THE FRENCH REPUBLIC.

MINISTRY FOR FOREIGN AFFAIRS,
PARIS, March 12, 1915.

Mr. President: The German Government has decreed certain measures which, in violation of the usages of war, are aimed at declaring the waters which encircle northern France and the United Kingdom a military zone, in which all Allied merchant vessels shall be destroyed without regard for the lives of the crew and the noncombatant passengers and in which neutral shipping will be exposed to the same dangers.

In a memorandum accompanying the publication of the aforesaid measures neutrals are warned not to embark sailors, passengers, or cargo on ships belonging to the Allies.

Such pretensions on the part of the enemy give to the Allied Governments the right to respond by preventing every kind of merchandise from reaching or leaving Germany. However, the Allied Governments never intend to follow their enemy in the cruel and barbarous methods of which he habitually makes use, and the measures to which they have been obliged to have recourse shall not in their intention carry any risk for neutral vessels or for the lives of neutrals or noncombatants and shall be applied in strict conformity with the laws of humanity.

It is under these conditions and in this spirit that the joint declaration hereto annexed, notified to the Allied Governments on March 1, 1915, has

been conceived, and in which are drafted the terms of the decree which we have the honor to submit for your high approval.

We beg you to accept, Mr. President, the assurances of our profound respect.

Minister of Finance,
Signed: A. RIBOT.

Minister of Marine,
Signed: VICTOR AUGAGNEUR.

Minister for Foreign Affairs,
Signed: DELCASSÉ

Minister of War,
Signed: A. MILLERAND.

b. DECREE.

The President of the French Republic, on the report of the Minister for Foreign Affairs, the Minister of Finance, the Minister of War, and the Minister of Marine, decrees:

ARTICLE 1.

All goods belonging to subjects of the German Empire, either shipped from or to Germany and having taken the sea since the promulgation of this present decree shall be stopped by the cruisers of the Republic.

All territory occupied by the German armed forces is assimilated to German territory.

ARTICLE 2.

All articles and goods either of German brand or manufacture or made in Germany, the products of German soil, as well as all articles and merchandise, whatsoever the point of departure of which, either direct or in transit, is in German territory, shall be considered as merchandise coming from Germany.

However, the present stipulation shall not apply to articles or merchandise which the subject of a neutral country may prove to have brought lawfully into a neutral country prior to the promulgation of the present decree or of which he may prove that he was in regular and lawful possession prior to the said promulgation.

ARTICLE 3.

All articles and merchandise whatsoever shipped either direct or in transit to Germany or to a country close to Germany, whenever the documents accompanying said articles or merchandise shall not show proof that their ultimate and true destination is in a neutral country, shall be considered as merchandise destined for Germany.

ARTICLE 4.

Neutral vessels on board of which shall be found merchandise falling within Article 1 shall be conducted to a French or Allied port. In the event of the vessel being brought to a French port the merchandise shall be unloaded unless otherwise provided as hereinafter stipulated. The vessel shall afterward be liberated.

All merchandise recognized as belonging to German subjects shall be placed under sequestration or sold, the proceeds thereof being deposited at the Caisse des Dépôts et Consignations until the conclusion of peace to the account of the persons entitled thereto.

All merchandise belonging to neutrals and coming from Germany shall be held at the disposal of their neutral owners to be reshipped to their port of departure within a delay which shall be determined. After expiration of the said delay the said merchandise shall be subject to requisition or sold for the account and at the expense and risk of the owners.

Merchandise belonging to neutrals and bound for Germany shall be held at the disposal of the neutral owners, either to be returned to the port of departure or to be sent to any other French, Allied, or neutral port, as may be authorized. In either case a period of time shall be fixed, at the expiration of which the merchandise shall be subject to requisition or sold for the account and at the expense and risk of the owner.

ARTICLE 5.

In exceptional cases, at the suggestion of the Minister for Foreign Affairs, approved by the Minister of War, the Minister of Marine may grant authorization for the passage of a specified cargo or a certain special category of merchandise destined to or coming from a specified neutral country.

Goods coming from Germany shall only be authorized to pass when they shall have been loaded in a neutral port after having paid the customs duty of the neutral country.

ARTICLE 6.

Nothing in this decree shall be deemed to affect the provisions decreed regarding merchandise declared absolute or conditional contraband of war.

ARTICLE 7.

The question as to whether the captured merchandise belongs to German subjects or is bound to or from Germany shall be decided before a prize court as hereinafter provided.

Within two days from the arrival of the captured ship, the ship's papers and other documents justifying the capture shall be sent by the prize service of the port through the Minister of Marine, to the commissioner representing the Government at the prize court, who will immediately notify the president of the said court.

The president shall convene the court which shall declare sentence upon the said documents within eight days of the registration of the *dossier* at the court. Notwithstanding the said delay, the court shall always be entitled to order any investigation which may appear to it advisable and to grant, if necessary, to the parties who may so demand, sufficient time to justify their rights.

The decision of the prize court shall be transmitted to the Minister of Marine, who shall be directed to execute same.

ARTICLE 8.

The Minister for Foreign Affairs, the Minister of Finance, the Minister of War, and the Minister of Marine shall be directed, in so far as they are respectively concerned, to execute the present decree.

Done at Paris, March 13, 1915.

Signed: R. POINCARÉ.

By the President of the Republic.

The Minister for Foreign Affairs,
Signed: DELCASSÉ.

The Minister of Finance,
Signed: A. RIBOT.

The Minister of War,
Signed: A. MILLERAND.

The Minister of Marine,
Signed: VICTOR AUGAGNEUR.

c. Annex.

Declaration.

Germany has declared the English Channel, the northern and western coasts of France, as well as the waters surrounding the British Isles to be a "war zone," and has officially proclaimed that "all enemy vessels found in this zone will be destroyed and that neutral vessels there might be in danger." This is in reality a claim to torpedo at sight, without regard for the safety of crew and passengers, any merchant vessel under any flag. As it is not in the power of the German Admiralty to maintain any vessel on the surface in these waters, this attack can only be carried out by submarine means. International law and the custom of nations regarding attack against commerce have always presumed that the first duty of the captor of a merchant vessel is to take it before a prize court where it can be judged, where the regularity of the capture can be determined, and where neutrals may recover their cargo. To sink a captured vessel is in itself a questionable act, to which recourse can be had only under extraordinary circumstances and after measures have been taken to assure the safety of all the crew and the passengers, if there are passengers on board. The responsibility of distinguishing between neutral and enemy cargo, as well as between neutral and enemy vessels, is manifestly incumbent on the attacking vessel, whose duty it is to verify the status and the character of the vessel and its cargo, as well as to place all papers in safety, before sinking or even making a capture. Also the duty toward humanity consisting in assuring the safety of crews of merchant vessels, whether they are neutral or enemy, is an obligation for every belligerent. It is on this basis that all previous discussions of the law aiming at regulating the conduct of war at sea have been conducted.

In fact, a German submarine is incapable of fulfilling any one of these obligations. It exercises no local power on the waters in which it operates. It does not bring its capture within the jurisdiction of a prize court. It does not carry any prize crew which it can put aboard a prize. It employs no effective means of distinguishing between a neutral and an enemy vessel. It does not, by taking them on board, assure the safety of the crew and passengers of the vessel which it sinks. Its methods of war are consequently entirely outside the observance of all international texts, governing operations against commerce in time of war. The German declaration substitutes for regulated capture, blind destruction.

Germany adopts these methods against peaceful merchants and noncombatant crews with the avowed intention of preventing merchandise of every kind (including provisions for feeding the civil population) from entering or leaving the British Isles and northern France. Her adversaries are consequently forced to have recourse to measures of retaliation, so as to prevent reciprocally merchandise of all kinds from reaching or leaving Germany. However, these measures will be enforced by the French and British Governments without risk, either for the vessels or the lives of neutrals and of noncombatants, and in strict conformity with humane principles.

Consequently, the French Government and the British Government consider themselves free to stop and conduct into their ports, vessels carrying merchandise presumably destined for the enemy, property of the enemy, or coming from the enemy. These vessels will not be confiscated unless they shall be liable to be condemned for other reasons. The treatment of vessels and cargoes which have gone to sea before this date will not be modified.

MARCH 1, 1915.

14. The Secretary of State to the American Ambassador at London.

(TELEGRAM.)

DEPARTMENT OF STATE,
WASHINGTON, March 30, 1915.

No. 1343.]

You are instructed to deliver the following to His Majesty's Government in reply to your Nos. 1795 and 1798 of March 15:

The Government of the United States has given careful consideration to the subjects treated in the British notes of March 13 and March 15, and to the British Order in Council of the latter date.

These communications contain matters of grave importance to neutral nations. They appear to menace their rights of trade and intercourse not only with belligerents but also with one another. They call for frank comment in order that misunderstandings may be avoided. The Government of the United States deems it its duty, therefore, speaking in the sincerest spirit of friendship, to make its own view and position with regard to them unmistakably clear.

The Order in Council of the 15th of March would constitute, were its provisions to be actually carried into effect as they stand, a practical assertion of unlimited belligerent rights over neutral commerce within the

whole European area, and an almost unqualified denial of the sovereign rights of the nations now at peace.

This Government takes it for granted that there can be no question what those rights are. A nation's sovereignty over its own ships and citizens under its own flag on the high seas in time of peace is, of course, unlimited; and that sovereignty suffers no diminution in time of war, except in so far as the practice and consent of civilized nations has limited it by the recognition of certain now clearly determined rights, which it is conceded may be exercised by nations which are at war.

A belligerent nation has been conceded the right of visit and search, and the right of capture and condemnation, if upon examination a neutral vessel is found to be engaged in unneutral service or to be carrying contraband of war intended for the enemy's government or armed forces. It has been conceded the right to establish and maintain a blockade of an enemy's ports and coasts and to capture and condemn any vessel taken in trying to break the blockade. It is even conceded the right to detain and take to its own ports for judicial examination all vessels which it suspects for substantial reasons to be engaged in unneutral or contraband service and to condemn them if the suspicion is sustained. But such rights, long clearly defined both in doctrine and practice, have hitherto been held to be the only permissible exceptions to the principle of universal equality of sovereignty on the high seas as between belligerents and nations not engaged in war.

It is confidently assumed that His Majesty's Government will not deny that it is a rule sanctioned by general practice that, even though a blockade should exist and the doctrine of contraband as to unblockaded territory be rigidly enforced, innocent shipments may freely be transported to and from the United States through neutral countries to belligerent territory without being subject to the penalties of contraband traffic or breach of blockade, much less to detention, requisition, or confiscation.

Moreover the rules of the Declaration of Paris of 1856—among them that free ships make free goods—will hardly at this day be disputed by the signatories of that solemn agreement.

His Majesty's Government, like the Government of the United States, have often and explicitly held that these rights represent the best usage of warfare in the dealings of belligerents with neutrals at sea. In this connection I desire to direct attention to the opinion of the Chief Justice of the United States in the case of the *Peterhof*, which arose out of the Civil War, and to the fact that that opinion was unanimously sustained in the award of the arbitration commission of 1871, to which the case was

presented at the request of Great Britain. From that time to the Declaration of London of 1909, adopted with modifications by the Order in Council of the 23d of October last, these rights have not been seriously questioned by the British Government. And no claim on the part of Great Britain of any justification for interfering with these rights of the United States and its citizens as neutrals could be admitted. To admit it would be to assume an attitude of unneutrality toward the present enemies of Great Britain which would be obviously inconsistent with the solemn obligations of this Government in the present circumstances; and for Great Britain to make such a claim would be for her to abandon and set at naught the principles for which she has consistently and earnestly contended in other times and circumstances.

The note of His Majesty's Principal Secretary of State for Foreign Affairs which accompanies the Order in Council, and which bears the same date, notifies the Government of the United States of the establishment of a blockade which is, if defined by the terms of the Order in Council, to include all the coasts and ports of Germany and every port of possible access to enemy territory. But the novel and quite unprecedented feature of that blockade, if we are to assume it to be properly so defined, is that it embraces many neutral ports and coasts, bars access to them and subjects all neutral ships seeking to approach them to the same suspicion that would attach to them were they bound for the ports of the enemies of Great Britain, and to unusual risks and penalties.

It is manifest that such limitations, risks, and liabilities placed upon the ships of a neutral Power on the high seas, beyond the right of visit and search and the right to prevent the shipment of contraband already referred to, are a distinct invasion of the sovereign rights of the nation whose ships, trade, or commerce is interfered with.

The Government of the United States is, of course, not oblivious to the great changes which have occurred in the conditions and means of naval warfare since the rules hitherto governing legal blockade were formulated. It might be ready to admit that the old form of "close" blockade with its cordon of ships in the immediate offing of the blockaded ports is no longer practicable in face of an enemy possessing the means and opportunity to make an effective defense by the use of submarines, mines, and air craft; but it can hardly be maintained that, whatever form of effective blockade may be made use of, it is impossible to conform at least to the spirit and principles of the established rules of war. If the necessities of the case should seem to render it imperative that the cordon of blockading vessels be extended across the approaches to any neighboring neutral port or

country, it would seem clear that it would still be easily practicable to comply with the well-recognized and reasonable prohibition of international law against the blockading of neutral ports by according free admission and exit to all lawful traffic with neutral ports through the blockading cordon. This traffic would, of course, include all outward-bound traffic from the neutral country and all inward-bound traffic to the neutral country except contraband in transit to the enemy. Such procedure need not conflict in any respect with the rights of the belligerent maintaining the blockade, since the right would remain with the blockading vessels to visit and search all ships either entering or leaving the neutral territory which they were in fact, but not of right, investing.

The Government of the United States notes that in the Order in Council His Majesty's Government give as their reason for entering upon a course of action, which they are aware is without precedent in modern warfare, the necessity they conceive themselves to have been placed under to retaliate upon their enemies for measures of a similar nature which the latter have announced it their intention to adopt and which they have to some extent adopted; but the Government of the United States, recalling the principles upon which His Majesty's Government have hitherto been scrupulous to act, interprets this as merely a reason for certain extraordinary activities on the part of His Majesty's naval forces and not as an excuse for or prelude to any unlawful action. If the course pursued by the present enemies of Great Britain should prove to be in fact tainted by illegality and disregard of the principles of war sanctioned by enlightened nations, it cannot be supposed, and this Government does not for a moment suppose, that His Majesty's Government would wish the same taint to attach to their own actions or would cite such illegal acts as in any sense or degree a justification for similar practices on their part in so far as they affect neutral rights.

It is thus that the Government of the United States interprets the language of the note of His Majesty's Principal Secretary of State for Foreign Affairs which accompanies the copy of the Order in Council which was handed to the Ambassador of the United States near the Government in London and by him transmitted to Washington.

This Government notes with gratification that "wide discretion is afforded to the prize court in dealing with the trade of neutrals in such manner as may in the circumstances be deemed just, and that full provision is made to facilitate claims by persons interested in any goods placed in the custody of the marshal of the prize court under the order"; that "the effect of the Order in Council is to confer certain powers upon the executive officers of

His Majesty's Government"; and that "the extent to which these powers will be actually exercised and the degree of severity with which the measures of blockade authorized will be put into operation are matters which will depend on the administrative orders issued by the Government and the decisions of the authorities especially charged with the duty of dealing with individual ships and cargoes according to the merits of each case." This Government further notes with equal satisfaction the declaration of the British Government that "the instructions to be issued by His Majesty's Government to the fleet and to the customs officials and executive committees concerned will impress upon them the duty of acting with the utmost dispatch consistent with the object in view, and of showing in every case such consideration for neutrals as may be compatible with that object, which is, succinctly stated, to establish a blockade to prevent vessels from carrying goods for or coming from Germany."

In view of these assurances formally given to this Government, it is confidently expected that the extensive powers conferred by the Order in Council on the executive officers of the Crown will be restricted by "orders issued by the Government" directing the exercise of their discretionary powers in such a manner as to modify in practical application those provisions of the Order in Council which, if strictly enforced, would violate neutral rights and interrupt legitimate trade. Relying on the faithful performance of these voluntary assurances by His Majesty's Government, the United States takes it for granted that the approach of American merchantmen to neutral ports situated upon the long line of coast affected by the Order in Council will not be interfered with when it is known that they do not carry goods which are contraband of war or goods destined to or proceeding from ports within the belligerent territory affected.

The Government of the United States assumes with the greatest confidence that His Majesty's Government will thus adjust their practice to the recognized rules of international law, because it is manifest that the British Government have adopted an extraordinary method of "stopping cargoes destined for or coming from the enemy's territory," which, owing to the existence of unusual conditions in modern warfare at sea, it will be difficult to restrict to the limits which have been heretofore required by the law of nations. Though the area of operations is confined to "European waters including the Mediterranean," so great an area of the high seas is covered and the cordon of ships is so distant from the territory affected that neutral vessels must necessarily pass through the blockading force in order to reach important neutral ports which Great Britain as a belligerent has not the legal right to blockade and which, therefore, it is

presumed she has no intention of claiming to blockade. The Scandinavian and Danish ports, for example, are open to American trade. They are also free, so far as the actual enforcement of the Order in Council is concerned, to carry on trade with German Baltic ports although it is an essential element of blockade that it bear with equal severity upon all neutrals.

This Government, therefore, infers that the commanders of His Majesty's ships of war engaged in maintaining the so-called blockade will be instructed to avoid an enforcement of the proposed measures of nonintercourse in such a way as to impose restrictions upon neutral trade more burdensome than those which have been regarded as inevitable when the ports of a belligerent are actually blockaded by the ships of its enemy.

The possibilities of serious interruption of American trade under the Order in Council are so many, and the methods proposed are so unusual and seem liable to constitute so great an impediment and embarrassment to neutral commerce that the Government of the United States, if the Order in Council is strictly enforced, apprehends many interferences with its legitimate trade which will impose upon His Majesty's Government heavy responsibilities for acts of the British authorities clearly subversive of the rights of neutral nations on the high seas. It is, therefore, expected that His Majesty's Government, having considered these possibilities, will take the steps necessary to avoid them, and, in the event that they should unhappily occur, will be prepared to make full reparation for every act which under the rules of international law constitutes a violation of neutral rights.

As stated in its communication of October 22, 1914, "this Government will insist that the rights and duties of the United States and its citizens in the present war be defined by the existing rules of international law and the treaties of the United States, irrespective of the provisions of the Declaration of London, and that this Government reserves to itself the right to enter a protest or demand in each case in which those rights and duties so defined are violated or their free exercise interfered with, by the authorities of the British Government."

In conclusion you will reiterate to His Majesty's Government that this statement of the views of the Government of the United States is made in the most friendly spirit, and in accordance with the uniform candor which has characterized the relations of the two Governments in the past, and which has been in large measure the foundation of the peace and amity existing between the two nations without interruption for a century.

BRYAN.

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WAR ZONES
(*CONTINUED*)

INTERFERENCE WITH TRADE

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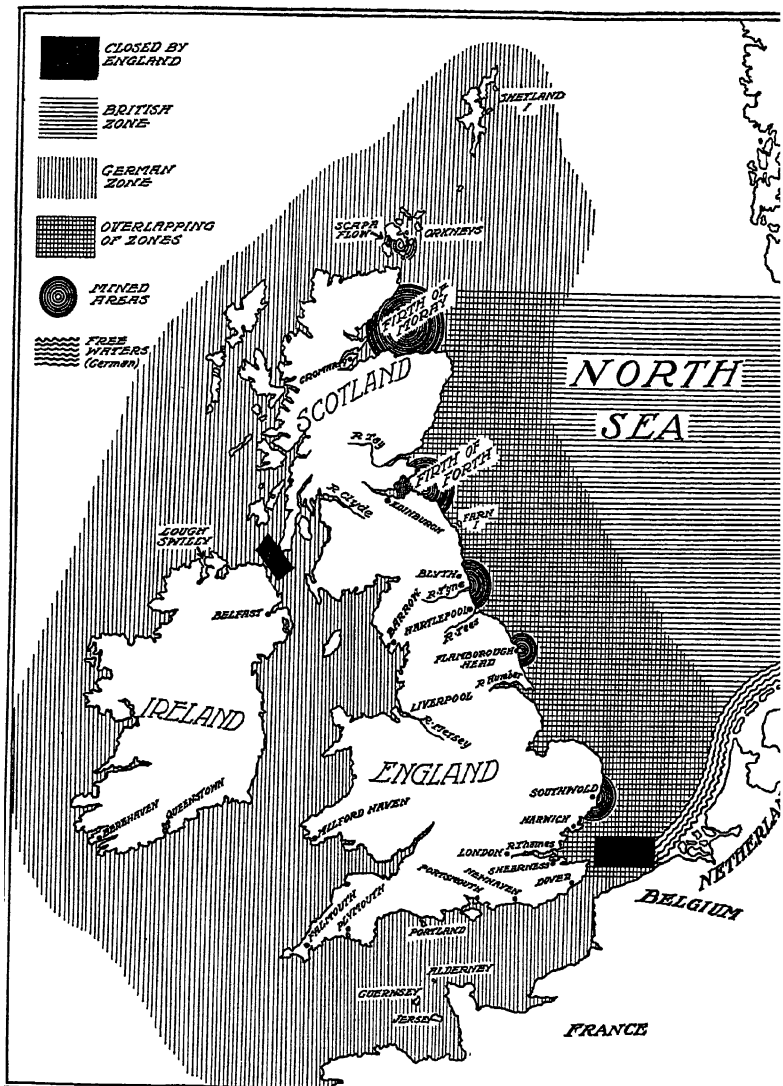
BRITISH AND GERMAN WAR ZONES



The above chart has been made to show graphically, so far as possible, the extent of the war zones around the British Isles and their relations to each other and to the respective belligerents' naval operations. The towns and territorial waters indicated are those subject to sudden temporary closure and to maritime examination service by Great Britain.

15. The American Ambassador at London to the Secretary of State.[1]

(TELEGRAM.)

AMERICAN EMBASSY,
LONDON, July 24, 1915.

No. 2225.]

Following note, dated July 23, received from Sir Edward Grey this morning:

1. On the 2d of April your Excellency handed to me a copy of a communication containing the criticisms of the United States Government on the measures we have been constrained to take on account of the menace to peaceful commerce resulting from the German submarine policy. This communication has received the most careful consideration of His Majesty's Government.

2. I fully appreciate the friendly spirit and the candor which are shown in the communication, and, replying in the same spirit, I trust that I may be able to convince your Excellency, and also the Administration at Washington, that the measures we have announced are not only reasonable and necessary in themselves, but constitute no more than an adaptation of the old principles of blockade to the peculiar circumstances with which we are confronted.

3. I need scarcely dwell on the obligation incumbent upon the Allies to take every step in their power to overcome their common enemy, in view of the shocking violation of the recognized rules and principles of civilized warfare of which he has been guilty during the present struggle. Your Excellency's attention has already been drawn to some of these proceedings in the memorandum which I handed to you on the 19th February. Since that time Lord Bryce's report,[2] based on evidence carefully sifted by legal experts, describing the atrocities committed in Belgium, the poisoning of wells in German Southwest Africa, the use of poisonous gases against the troops in Flanders, and, finally, the sinking of the *Lusitania* without any opportunity to passengers and noncombatants to save their lives, have shown how indispensable it is that we should leave unused no justifiable method of defending ourselves.

4. Your Excellency will remember that in my notes of the 13th and 15th March, I explained that the allied Governments intended to meet

[1] Reprinted from press reports.

[2] The British secretary refers to "Report of the Committee on Alleged German Outrages" and the appendix thereto, Parl. Pap., 1915, Cd. 7894 and 7895.

the German attempt to stop all supplies of every kind from leaving or entering British or French ports by themselves intercepting goods going to or from Germany. I read the communication from your Excellency's Government not as questioning the necessity for our taking all the steps open to us to cripple the enemy's trade, but as directed solely to the question of the legitimacy of the particular measures adopted.

5. In the various notes which I have received from your Excellency the right of a belligerent to establish a blockade of the enemy ports is admitted, a right which has obviously no value save in so far as it gives power to a belligerent to cut off the sea-borne exports and imports of his enemy. The contention which I understand the United States Government now put forward is that if a belligerent is so circumstanced that his commerce can pass through adjacent neutral ports as easily as through ports in his own territory, his opponent has no right to interfere, and must restrict his measures of blockade in such a manner as to leave such avenues of commerce still open to his adversary.

This is a contention which His Majesty's Government feel unable to accept and which seems to them unsustainable either in point of law or upon principles of international equity. They are unable to admit that a belligerent violates any fundamental principle of international law by applying a blockade in such a way as to cut off the enemy's commerce with foreign countries through neutral ports if the circumstances render such an application of the principles of blockade the only means of making it effective. The Government of the United States indeed intimates its readiness to take into account "the great changes which have occurred in the conditions and means of naval warfare since the rules hitherto governing legal blockade were formulated," and recognizes that "the form of close blockade, with its cordon of ships in the immediate offing of the blockaded ports, is no longer practicable in the face of an enemy possessing the means and opportunity to make an effective defense by the use of submarines, mines and aircraft."

6. The only question, then, which can arise in regard to the measures resorted to for the purpose of carrying out a blockade upon these extended lines is whether, to use your Excellency's words, they "conform to the spirit and principles of the essence of the rules of war"; and we shall be content to apply this test to the action which we have taken in so far as it has necessitated interference with neutral commerce.

7. It may be noted in this connection that at the time of the Civil War the United States found themselves under the necessity of declaring a blockade of some 3000 miles of coast line, a military operation for which

the number of vessels available was at first very small. It was vital to the cause of the United States in that great struggle that they should be able to cut off the trade of the Southern States. The Confederate armies were dependent on supplies from overseas, and those supplies could not be obtained without exporting the cotton wherewith to pay for them.

To cut off this trade the United States could only rely upon a blockade. The difficulties confronting the Federal Government were in part due to the fact that neighboring neutral territory afforded convenient centers from which contraband could be introduced into the territory of their enemies and from which blockade running could be facilitated. Your Excellency will no doubt remember how, in order to meet this new difficulty, the old principles relating to contraband and blockade were developed, and the doctrine of continuous voyage was applied and enforced, under which goods destined for the enemy territory were intercepted before they reached the neutral ports from which they were to be re-exported.

8. The difficulties which imposed upon the United States the necessity of reshaping some of the old rules are somewhat akin to those with which the Allies are now faced in dealing with the trade of their enemy. Adjacent to Germany are various neutral countries which afford her convenient opportunities for carrying on her trade with foreign countries. Her own territories are covered by a network of railways and waterways, which enable her commerce to pass as conveniently through ports in such neutral countries as through her own. A blockade limited to enemy ports would leave open routes by which every kind of German commerce could pass almost as easily as through the ports in her own territory. Rotterdam is indeed the nearest outlet for some of the industrial districts of Germany.

9. As a counterpoise to the freedom with which one belligerent may send his commerce across a neutral country without compromising its neutrality, the other belligerent may fairly claim to intercept such commerce before it has reached, or after it has left, the neutral State, provided, of course, that he can establish that the commerce with which he interferes is the commerce of his enemy and not commerce which is *bona fide* destined for or proceeding from the neutral State. It seems, accordingly, that if it be recognized that a blockade is in certain cases the appropriate method of intercepting the trade of an enemy country, and if the blockade can only become effective by extending it to enemy commerce passing through neutral ports, such an extension is defensible and in accordance with principles which have met with general acceptance.

10. To the contention that such action is not directly supported by written authority, it may be replied that it is the business of writers on international

law to formulate existing rules rather than to offer suggestions for their adaptation to altered circumstances, and your Excellency will remember the unmeasured terms in which a group of prominent international lawyers of all nations condemned the doctrine which had been laid down by the Supreme Court of the United States in the case of the *Springbok*, a doctrine upheld by the Claims Commission at Washington in 1873. But the United States and the British Government took a broader view and looked below the surface at the underlying purpose, and the Government of this country, whose nationals were the sufferers by the extension and development of the old methods of blockade made by the United States during the Civil War, abstained from all protest against the decisions by which the ships and their cargoes were condemned.

11. What is really important in the general interest is that adaptations of the old rules should not be made unless they are consistent with the general principles upon which an admitted belligerent right is based. It is also essential that all unnecessary injury to neutrals should be avoided. With these conditions, it may be safely affirmed that the steps we are taking to intercept commodities on their way to and from Germany fully comply. We are interfering with no goods with which we should not be entitled to interfere by blockade if the geographical position and the conditions of Germany at present were such that her commerce passed through her own ports. We are taking the utmost possible care not to interfere with commerce genuinely destined for or proceeding from neutral countries. Furthermore, we have tempered the severity with which our measures might press upon neutrals by not applying the rule, which was invariable in the old form of blockade, that ships and goods on their way to or from the blockaded area are liable to condemnation.

12. The communication made by the United States embassy on April 2 describes as a novel and quite unprecedented feature of the blockade that it embraces many neutral ports and coasts and has the effect of barring access to them. It does not appear that our measures can be properly so described. If we are successful in the efforts we are making to distinguish between the commerce of neutral and enemy countries, there will be no substantial interference with the trade of neutral ports, except in so far as they constitute ports of access to and exit from the enemy territory. There are at this moment many neutral ports which it would be mere affectation to regard as offering facilities only for the commerce of the neutral country in which they are situated, and the only commerce with which we propose to interfere is that of the enemy who seeks to make use of such ports for the purposes of transit to or from his own country.

13. One of the earlier passages in your Excellency's memorandum was to the effect that the sovereignty of neutral nations in time of war suffers no diminution, except in so far as the practice and consent of civilized nations have limited it "by the recognition of certain now clearly determined rights" which it is considered may be exercised by nations at war, and these it defines as the right of capture and condemnation for unneutral service, for the carriage of contraband, and for breach of blockade. I may, however, be permitted to point out that the practice of nations on each of the three subjects mentioned has not at any time been uniform or clearly determined, nor has the practice of any maritime nation always been consistent.

14. There are various particulars in which the exact method of carrying a blockade into effect has from time to time varied. The need of a public notification, the requisite standard of effectiveness, the locality of the blockading squadrons, the right of the individual ship to a preliminary warning that the blockade is in force and the penalty to be inflicted on a captured blockade runner, are all subjects on which different views have prevailed in different countries and in which the practice of particular countries has been altered from time to time. The one principle which is fundamental and has obtained universal recognition is that by means of blockade a belligerent is entitled to cut off, by effective means, the sea-borne commerce of his enemy.

15. It is the same with contraband. The underlying principle is well established, but as to the details, there has been a wide variety of views. As for unneutral service—the very term is of such recent introduction that many writers of repute on international law do not mention it—it is possible, in the view of His Majesty's Government in these circumstances, to maintain that the right of a belligerent to intercept the commerce of his enemy is limited in the way suggested in your Excellency's communication.

16. There are certain subsidiary matters dealt with in your Excellency's communication to which I think it well to refer. Among these may be mentioned your citation of the Declaration of Paris, due, no doubt, to the words which occur in the memorandum sent by me to your Excellency on the 1st of March,[1] wherein it was stated that the allied Governments would hold themselves free to detain and take into port ships carrying goods of presumed enemy destination, ownership, or origin, and to our announcement that vessels might be required to discharge goods of enemy ownership as well as those of enemy origin or destination.

17. It is not necessary to discuss the extent to which the second rule of the Declaration of Paris is affected by these measures or whether it could be held to apply at all as between Great Britain and the United States. In

[1] See page 49 above.

actual practice, however, we are not detaining goods on the sole ground that they are the property of an enemy. The purpose of the measures we are taking is to intercept commerce on its way from and to the enemy country. There are many cases in which proof that the goods were enemy property would afford strong evidence that they were of enemy origin or enemy destination, and it is only in such cases that we are detaining them. Where proof of enemy ownership would afford no evidence of such origin or destination we are not in practice of detaining the goods.

18. His Majesty's Government have been gratified to observe that the measures which they are enforcing have had no detrimental effect on the commerce of the United States. Figures of recent months show that the increased opportunities afforded by the war for American commerce have more than compensated for the loss of the German and Austrian markets.

19. I trust that in the light of the above explanations it will be realized that the measures to which we have resorted have been not only justified by the exigencies of the case, but can be defended as in accordance with general principles which have commended themselves to the Governments of both countries. I am glad to be able to assure your Excellency that we shall continue to apply these measures with every desire to occasion the least possible amount of inconvenience to persons engaged in legitimate commerce.

I have, etc.

E. GREY.

16. The Secretary of State to the American Ambassador at London.[1]

(TELEGRAM-PARAPHRASE.)

DEPARTMENT OF STATE,
WASHINGTON, July 14, 1915.

No. 1848.]

In view of differences which are understood to exist between the two Governments as to the principles of law applicable in prize court proceedings in cases involving American interests, and in order to avoid any misunderstanding as to the attitude of the United States in regard to such proceedings, you are instructed to inform the British Government that, in so far as the interests of American citizens are concerned, the Government of the United States will insist upon their rights under the principles and rules of international law, as hitherto established, governing neutral trade in time of war, without limitation or impairment by Orders in Council

[1] Reprinted from press reports.

or other municipal legislation by the British Government, and will not recognize the validity of prize court proceedings taken under restraints imposed by British municipal law in derogation of the rights of American citizens under international law.

17. The American Ambassador at London to the Secretary of State.[1]

(TELEGRAM.)

AMERICAN EMBASSY,
LONDON, July 31, 1915.

I have to-day received the following note from Sir Edward Grey:

FOREIGN OFFICE, July 31, 1915.

Your Excellency: 1. I have the honor to acknowledge the receipt of the note dated 16th instant in which you were good enough to communicate to me for the information of His Majesty's Government the opinion held by the Government of the United States, that, in view of differences which they understand to exist between the two countries as to the principles of law applicable to cases before the prize court they could not recognize the validity of proceedings taken in His Majesty's prize court in derogation of the rights of citizens of the United States.

2. I do not understand to what divergence of views as to the principles of law applicable in cases before the prize court the Government of the United States refers, for I am not aware of any differences existing between the two countries as to the principles of law applicable in cases before such courts.

3. British prize courts, according to the ancient form of commission under which they sit, are to determine cases which come before them, according to the course of admiralty and the law of nations and the statutes of rules and regulations for the time being in force in that behalf.

As to the principles applied by the American prize courts, I note that in the case of the *Amy Warwick* (2 Sprague, 123) it was held that prize courts are subject to the instructions of their own sovereigns. In the absence of such instructions their jurisdiction and rules of decision are to be ascertained by reference to the known powers of such tribunals and the principles by which they are governed under the public law and the practice of nations. It would appear, therefore, that the principles applied by the prize courts of the two countries are identical.

[1] Reprinted from press reports.

4. As illustrating further the attitude adopted by the judges of British prize courts toward these two sources of law, the municipal legislation of its sovereign on the one hand and the principles of international law on the other, I should like to refer your Excellency to a classical passage in the judgment of Lord Stowell, in the case of the *Fox*, in which that famous judge observed in the course of the discussion:

A question has been stated: What would be the duty of the court under Orders in Council that were repugnant to the law of nations? It has been contended on one side that the court would at all events be bound to enforce the Orders in Council, on the other that the court would be bound to apply the rule of the law of nations adapted to the particular case, in disregard of the Orders in Council.

This court is bound to administer the law of nations to the subjects of other countries in the different relations in which they may be placed toward this country and its Government. That is what others have a right to demand for their subjects, and to complain if they receive it not. This is its unwritten law, evidenced in the course of its decisions and collected from the common usage of civilized States. At the same time, it is strictly true that by the Constitution of this country the King in Council possesses legislative rights over this court and has power to issue orders and instructions, which it is bound to obey and enforce; and these constitute the written law of this court.

These two propositions, that the court is bound to administer the law of nations and that it is bound to enforce the King's Orders in Council, are not at all inconsistent with each other, because these orders and instructions are presumed to conform themselves, under the given circumstances, to the principles of its unwritten law. They are either directory applications of those principles to the cases indicated in them—cases which, with all the facts and circumstances belonging to them and which constitute their legal character, could be but imperfectly known to the court itself; or they are positive regulations, consistent with these principles, applying to matters which require more exact and definite rules than those general principles are capable of furnishing.

The constitution of this court, relatively to the legislative power of the King in Council, is analogous to that of the courts of common law relatively to that of the Parliament of this Kingdom. These courts have their unwritten law, the approved reasons, principles of natural reason and justice; they have likewise the written or statute law in Acts of Parliament, which are directory applications of the same principles to particular subjects or positive regulations consistent with them upon matters which would remain too much at large if they were left to the imperfect information which the courts could extract from mere general speculations.

What would be the duty of the individuals who preside in these courts if required to enforce an Act of Parliament which contradicted these principles is a question which, I presume, they would not entertain *a priori* because they will not entertain *a priori* the supposition that any such will arise. In like manner

this court will not let itself loose into speculations as to what would be its duty under such an emergency; because it cannot, without extreme indecency, presume that any such emergency will happen. And it is the less disposed to entertain them because its own observation and experience attest the general conformity of such orders and instructions to its principles of unwritten law.

5. The above passage has recently been quoted and adopted by the president of the prize court in the case of the *Zamora*, in which Sir S. Evans said: "I make bold to express the hope and belief that the nations of the world need not be apprehensive that Orders in Council will emanate from the Government of this country in such violation of the acknowledged laws of nations that it is conceivable that our prize tribunals, holding the law of nations in reverence, would be called upon to disregard and refuse obedience to the provisions of such orders."

6. In the note which I handed to your Excellency on the 23d of July, I endeavored to convince the Government of the United States, and I trust with success, that the measures that we have felt ourselves compelled to adopt, in consequence of the numerous acts committed by our enemies in violation of the laws of war and the dictates of humanity, are consistent with the principles of international law. The legality of these measures has not yet formed the subject of a decision of the prize court; but I wish to take this opportunity of reminding your Excellency that it is open to any United States citizen whose claim is before the prize court to contend that any Order in Council which may affect his claim is inconsistent with the principles of international law, and is, therefore, not binding upon the court. If the prize court declines to accept his contentions, and if, after such a decision has been upheld on appeal by the Judicial Committee of His Majesty's Privy Council, the Government of the United States of America consider that there is serious ground for holding that the decision is incorrect and infringes the rights of their citizens, it is open to them to claim that it should be subjected to review by an international tribunal.

7. This principle, that the decisions of the national prize courts may properly be subjected to international review, was conceded by Great Britain in Article VII of the Jay treaty of 1794 and by the United States of America under the Treaty of Washington of 1871. Your Excellency will no doubt remember that certain cases (collectively known as the "*Matamoros* cases") were submitted to the commission established under Articles XII–XVII of the Treaty of Washington. In each of these cases proceedings in prize had been instituted in the prize courts of the United States, and in each case the judgment of the Supreme Court, the court of

last resort in cases of prizes, had been obtained.[1] The United States filed a demurrer in these cases, alleging that, as they had been heard by the prize courts of the United States of original and appellate jurisdiction, the decision of the appellate court was final, and no claim based upon it could be made before the commission. The demurrer was unanimously overruled and the cases heard, and the agent of the United States, in his reports of the proceedings of the commission, stated that he, personally, maintained no doubt of the jurisdiction of the commission as an international tribunal to review the decisions of the prize courts of the United States where the parties alleging themselves aggrieved had prosecuted their claims by appeals to the court of last resort; as this jurisdiction, however, had been sometimes questioned, he deemed it desirable that a formal adjudication by the commission should be held upon this question.

8. The same principle was accepted both by the United States Government and His Majesty's Government in 1907 in connection with the proposed establishment of an international prize court, although certain constitutional difficulties have led the United States Government to propose that the right of recourse to the international prize court in connection with a decision of the Supreme Court of the United States should take the form of a direct claim for compensation.

9. It is clear, therefore, that both the United States Government and His Majesty's Government have adopted the principle that the decisions of a national prize court may be open to review if it is held in the prize court and in the Judicial Committee of the Privy Council, on appeal, that the orders and instructions issued by His Majesty's Government in matters relating to prize are in harmony with the principles of international law; and, should the Government of the United States unfortunately feel compelled to maintain a contrary view, His Majesty's Government will be prepared to concert with the United States Government in order to decide upon the best way of applying the above principle to the situation which would then have arisen. I trust, however, that the defense of our action, which I have already communicated to your Excellency, and the willingness of His Majesty's Government (which has been shown in so many instances) to make reasonable concessions to American interests, will prevent the necessity for such action arising.

10. In any case, I trust that the explanations given above will remove the misapprehension under which I cannot but feel the Government of

[1] See Moore, *Digest of International Law*, VII, 715–719; also his *Digest of International Arbitrations*, 3838–3843 and 3950–3957. The prize decisions are in Blatchford's *Prize Cases* and the Supreme Court decisions in 5 Wallace.

the United States are laboring as to the principles applied by British prize courts in dealing with the cases which come before them.

I have, etc.

E. GREY.

18. Seizure of the Cargo of the "Neches."

a. THE SECRETARY OF STATE TO THE AMERICAN AMBASSADOR AT LONDON.[1]

(TELEGRAM-PARAPHRASE.)

DEPARTMENT OF STATE,
WASHINGTON, July 15, 1915.

No. 1852.]

Ambassador Page is informed that it has been brought to the attention of the Department that the steamship *Neches*, of American register, sailing from Rotterdam for the United States, carrying a general cargo, after being detained at the Downs, was brought to London, where it was required by the British authorities to discharge cargo, the property of American citizens.

It appears that the ground advanced to sustain this action is that the goods originated, in part at least, in Belgium and fall, therefore, within the provisions of Paragraph 4 of the Order in Council of March 11, which stipulates that every merchant vessel sailing from a port other than a German port, carrying goods of enemy origin, may be required to discharge such goods in a British or Allied port.

Ambassador Page is instructed in this case to reiterate the position of the Government of the United States as set forth in the Department's instruction of March 30, 1915, with respect to the Order in Council mentioned, the international invalidity of which the Government of the United States regards as plainly illustrated by the present instance of the seizure of American-owned goods passing from the neutral port of Rotterdam to a neutral port of the United States, merely because the goods came originally from territory in the possession of an enemy of Great Britain.

Mr. Page is also instructed to inform the Foreign Office that the legality of this seizure cannot be admitted and that, in the view of the Government of the United States, it violates the right of the citizens of one neutral to trade with those of another, as well as with those of belligerents, except

[1] Reprinted from press reports.

in contraband or in violation of a legal blockade of an enemy seaport; and that the right of American owners of goods to bring them out of Holland, in due course, in neutral ships must be insisted upon by the United States, even though such goods may have come originally from the territories of enemies of Great Britain. He is directed further to insist upon the desire of this Government that goods taken from the *Neches*, which are the property of American citizens, should be expeditiously released to be forwarded to their destination, and to request that he be advised of the British Government's intended course in this matter at the earliest moment convenient to that Government.

b. THE AMERICAN AMBASSADOR AT LONDON TO THE SECRETARY OF STATE.[1]

(TELEGRAM.)

AMERICAN EMBASSY,
LONDON, July 31, 1915.

Sir Edward Grey has to-day sent me the following note:

"The note which your Excellency addressed to me on the 17th instant respecting the detention of the cargo of the steamship *Neches* has, I need hardly say, received the careful attention of His Majesty's Government.

"The note which I had the honor to send to your Excellency on the 23d instant has already explained the view of His Majesty's Government on the legal aspect of the question, though it was prepared before your Excellency's communication of the 17th had been received, and, pending consideration by the Government of the United States of the views and arguments set forth in the British note of the 23d, it is unnecessary for me to say more on the question of right or of law.

"There is, however, one general observation that seems relevant to the note from your Excellency respecting the cargo of the *Neches*.

"It is the practice of the German Government, in the waters through which the *Neches* was passing, to sink neutral as well as British merchant vessels, irrespective of the destination of the vessel or origin of the cargo, and without proper regard or provision for the safety of passengers or crews, many of whom have lost their lives in consequence. There can be no question that this action is contrary to the recognized and settled rules of international law, as well as to the principles of humanity.

"His Majesty's Government, on the other hand, have adhered to the

[1] Reprinted from press reports.

rule of visit and search, and have observed the obligation to bring into port and submit to a prize court any ships or cargoes with regard to which they think they have a good case for detention or for condemnation as contraband.

"His Majesty's Government are not aware, except from the published correspondence between the United States and Germany, to what extent reparation has been claimed from Germany by neutrals for loss of ships, lives and cargoes, nor how far these acts have been the subject even of protest by the neutral Governments concerned.

"While those acts of the German Government continue, it seems neither reasonable nor just that His Majesty's Government should be pressed to abandon the rights claimed in the British note of the 23d and to allow goods from Germany to pass freely through waters effectively patrolled by British ships of war.

"If, however, it be alleged that, in particular cases and special circumstances, hardships may be inflicted on citizens of neutral countries, His Majesty's Government are ready in such cases to examine the facts in a spirit of consideration for the interest of neutrals, and in this spirit they are prepared to deal with the cargo of the *Neches*, to which your Excellency has called attention, if it is held that the particular circumstances of this case fall within this category."

PAGE.

IV. Interference with American Trade with Neutrals.

1. The Secretary of State to the American Ambassador at London.

(TELEGRAM.)

DEPARTMENT OF STATE,
WASHINGTON, December 26, 1914.

The present condition of American foreign trade resulting from the frequent seizures and detentions of American cargoes destined to neutral European ports has become so serious as to require a candid statement of the views of this Government in order that the British Government may be fully informed as to the attitude of the United States toward the policy which has been pursued by the British authorities during the present war.

You will, therefore, communicate the following to His Majesty's Principal Secretary of State for Foreign Affairs, but in doing so you will assure him that it is done in the most friendly spirit and in the belief that frankness will better serve the continuance of cordial relations between the two countries than silence, which may be misconstrued into acquiescence in a course of conduct which this Government cannot but consider to be an infringement upon the rights of American citizens.

The Government of the United States has viewed with growing concern the large number of vessels laden with American goods destined to neutral ports in Europe, which have been seized on the high seas, taken into British ports and detained sometimes for weeks by the British authorities. During the early days of the war this Government assumed the policy adopted by the British Government was due to the unexpected outbreak of hostilities and the necessity of immediate action to prevent contraband from reaching the enemy. For this reason, it was not disposed to judge this policy harshly or protest it vigorously, although it was manifestly very injurious to American trade with the neutral countries of Europe. This Government, relying confidently upon the high regard which Great Britain has so often exhibited in the past for the rights of other nations, confidently awaited amendment of a course of action which denied to neutral commerce the freedom to which it was entitled by the law of nations.

This expectation seemed to be rendered the more assured by the statement of the Foreign Office early in November that the British Government were satisfied with guarantees offered by the Norwegian, Swedish, and

Danish Governments as to nonexportation of contraband goods when consigned to named persons in the territories of those Governments, and that orders had been given to the British fleet and customs authorities to restrict interference with neutral vessels carrying such cargoes so consigned to verification of ship's papers and cargoes.

It is, therefore, a matter of deep regret that, though nearly five months have passed since the war began, the British Government have not materially changed their policy and do not treat less rigorously ships and cargoes passing between neutral ports in the peaceful pursuit of lawful commerce, which belligerents should protect rather than interrupt. The greater freedom from detention and seizure which was confidently expected to result from consigning shipments to definite consignees, rather than "to order," is still awaited.

It is needless to point out to His Majesty's Government, usually the champion of the freedom of the seas and the rights of trade, that peace, not war, is the normal relation between nations, and that the commerce between countries which are not belligerents should not be interfered with by those at war, unless such interference is manifestly an imperative necessity to protect their national safety, and then only to the extent that it is a necessity. It is with no lack of appreciation of the momentous nature of the present struggle, in which Great Britain is engaged, and with no selfish desire to gain undue commercial advantage that this Government is reluctantly forced to the conclusion that the present policy of His Majesty's Government toward neutral ships and cargoes exceeds the manifest necessity of a belligerent and constitutes restrictions upon the rights of American citizens on the high seas which are not justified by the rules of international law or required under the principle of self-preservation.

The Government of the United States does not intend at this time to discuss the propriety of including certain articles in the lists of absolute and conditional contraband, which have been proclaimed by His Majesty. Open to objection as some of these seem to this Government, the chief ground of present complaint is the treatment of cargoes of both classes of articles when bound to neutral ports.

Articles listed as absolute contraband, shipped from the United States and consigned to neutral countries, have been seized and detained on the ground that the countries to which they were destined have not prohibited the exportation of such articles. Unwarranted as such detentions are, in the opinion of this Government, American exporters are further perplexed by the apparent indecision of the British authorities in applying their own rules to neutral cargoes. For example, a shipment of copper from this

country to a specified consignee in Sweden was detained because, as was stated by Great Britain, Sweden had placed no embargo on copper. On the other hand, Italy not only prohibited the export of copper, but, as this Government is informed, put in force a decree that shipments to Italian consignees or "to order," which arrive in ports of Italy, cannot be exported or transshipped. The only exception Italy makes is of copper which passes through that country in transit to another country. In spite of these decrees, however, the British Foreign Office has thus far declined to affirm that copper shipments consigned to Italy will not be molested on the high seas. Seizures are so numerous and delays so prolonged that exporters are afraid to send their copper to Italy, steamship lines decline to accept it, and insurers refuse to issue policies upon it. In a word, a legitimate trade is being greatly impaired through uncertainty as to the treatment which it may expect at the hands of the British authorities.

We feel that we are abundantly justified in asking for information as to the manner in which the British Government propose to carry out the policy which they have adopted, in order that we may determine the steps necessary to protect our citizens, engaged in foreign trade, in their rights and from the serious losses to which they are liable through ignorance of the hazards to which their cargoes are exposed.

In the case of conditional contraband the policy of Great Britain appears to this Government to be equally unjustified by the established rules of international conduct. As evidence of this, attention is directed to the fact that a number of the American cargoes which have been seized consist of foodstuffs and other articles of common use in all countries which are admittedly relative contraband. In spite of the presumption of innocent use because destined to neutral territory, the British authorities made these seizures and detentions without, so far as we are informed, being in possession of facts which warranted a reasonable belief that the shipments had in reality a belligerent destination, as that term is used in international law. Mere suspicion is not evidence and doubts should be resolved in favor of neutral commerce, not against it. The effect upon trade in these articles between neutral nations resulting from interrupted voyages and detained cargoes is not entirely cured by reimbursement of the owners for the damages, which they have suffered, after investigation has failed to establish an enemy destination. The injury is to American commerce with neutral countries as a whole through the hazard of the enterprise and the repeated diversion of goods from established markets.

It also appears that cargoes of this character have been seized by the British authorities because of a belief that, though not originally so intended

by the shippers, they will ultimately reach the territory of the enemies of Great Britain. Yet this belief is frequently reduced to a mere fear in view of the embargoes which have been decreed by the neutral countries, to which they are destined, on the articles composing the cargoes.

That a consignment "to order" of articles listed as conditional contraband and shipped to a neutral port raises a legal presumption of enemy destination appears to be directly contrary to the doctrines previously held by Great Britain, and thus stated by Lord Salisbury during the South African war:

"Foodstuffs, though having a hostile destination, can be considered as contraband of war only if they are for the enemy forces; it is not sufficient that they are capable of being so used, it must be shown that this was in fact their destination at the time of their seizure."

With this statement as to conditional contraband the views of this Government are in entire accord, and upon this historic doctrine, consistently maintained by Great Britain when a belligerent as well as a neutral, American shippers were entitled to rely.

The Government of the United States readily admits the full right of a belligerent to visit and search on the high seas the vessels of American citizens or other neutral vessels carrying American goods and to detain them *when there is sufficient evidence to justify a belief that contraband articles are in their cargoes;* but His Majesty's Government, judging by their own experience in the past, must realize that this Government cannot without protest permit American ships or American cargoes to be taken into British ports and there detained for the purpose of searching generally for evidence of contraband, or upon presumptions created by special municipal enactments which are clearly at variance with international law and practice.

This Government believes, and earnestly hopes His Majesty's Government will come to the same belief, that a course of conduct more in conformity with the rules of international usage, which Great Britain has strongly sanctioned for many years, will in the end better serve the interests of belligerents as well as those of neutrals.

Not only is the situation a critical one to the commercial interests of the United States, but many of the great industries of this country are suffering because their products are denied long-established markets in European countries, which, though neutral, are contiguous to the nations at war. Producers and exporters, steamship and insurance companies are pressing, and not without reason, for relief from the menace to trans-Atlantic trade which is gradually but surely destroying their business and threatening them with financial disaster.

The Government of the United States, still relying upon the deep sense of justice of the British Nation, which has been so often manifested in the intercourse between the two countries during so many years of uninterrupted friendship, expresses confidently the hope that His Majesty's Government will realize the obstacles and difficulties which their present policy has placed in the way of commerce between the United States and the neutral countries of Europe, and will instruct its officials to refrain from all unnecessary interference with the freedom of trade between nations which are sufferers, though not participants, in the present conflict; and will in their treatment of neutral ships and cargoes conform more closely to those rules governing the maritime relations between belligerents and neutrals, which have received the sanction of the civilized world, and which Great Britain has, in other wars, so strongly and successfully advocated.

In conclusion it should be impressed upon His Majesty's Government that the present condition of American trade with the neutral European countries is such that, if it does not improve, it may arouse a feeling contrary to that which has so long existed between the American and British peoples. Already it is becoming more and more the subject of public criticism and complaint. There is an increasing belief, doubtless not entirely unjustified, that the present British policy toward American trade is responsible for the depression in certain industries which depend upon European markets. The attention of the British Government is called to this possible result of their present policy to show how widespread the effect is upon the industrial life of the United States and to emphasize the importance of removing the cause of complaint.

BRYAN.

2. The British Secretary of State for Foreign Affairs to the American Ambassador.[1]

FOREIGN OFFICE, January 7, 1915.

Your Excellency,

I HAVE the honor to acknowledge the receipt of your note of the 28th December.

It is being carefully examined and the points raised in it are receiving consideration, as the result of which a reply shall be addressed to your

[1] No. 2 in Miscellaneous, No. 6 (1915), *Correspondence between His Majesty's Government and the United States Government respecting the Rights of Belligerents.* British documents are reprinted from this parliamentary paper.

Excellency, dealing in detail with the issues raised and the points to which the United States Government have drawn attention. This consideration and the preparation of the reply will necessarily require some time, and I therefore desire to send without further delay some preliminary observations which will, I trust, help to clear the ground and remove some misconceptions that seem to exist.

Let me say at once that we entirely recognize the most friendly spirit referred to by your Excellency, and that we desire to reply in the same spirit and in the belief that, as your Excellency states, frankness will best serve the continuance of cordial relations between the two countries.

His Majesty's Government cordially concur in the principle enunciated by the Government of the United States, that a belligerent, in dealing with trade between neutrals, should not interfere unless such interference is necessary to protect the belligerent's national safety, and then only to the extent to which this is necessary. We shall endeavor to keep our action within the limits of this principle, on the understanding that it admits our right to interfere when such interference is, not with *bona fide* trade between the United States and another neutral country, but with trade in contraband destined for the enemy's country, and we are ready, whenever our action may unintentionally exceed this principle, to make redress.

We think that much misconception exists as to the extent to which we have, in practice, interfered with trade. Your Excellency's note seems to hold His Majesty's Government responsible for the present condition of trade with neutral countries, and it is stated that, through the action of His Majesty's Government, the products of the great industries of the United States have been denied long-established markets in European countries which, though neutral, are contiguous to the seat of war. Such a result is far from being the intention of His Majesty's Government, and they would exceedingly regret that it should be due to their action. I have been unable to obtain complete or conclusive figures showing what the state of trade with these neutral countries has been recently, and I can therefore only ask that some further consideration should be given to the question whether United States trade with these neutral countries has been so seriously affected. The only figures as to the total volume of trade that I have seen are those for the exports from New York for the month of November, 1914, and they are as follows, compared with the month of November, 1913:—

—	November, 1913.	November, 1914.
	Dollars.	Dollars.
Exports from New York for—		
Denmark	558,000	7,101,000
Sweden	377,000	2,858,000
Norway	477,000	2,318,000
Italy	2,971,000	4,781,000
Holland	4,389,000	3,960,000

It is true that there may have been a falling off in cotton exports, as to which New York figures would be no guide, but His Majesty's Government have been most careful not to interfere with cotton, and its place on the free list has been scrupulously maintained.

We do not wish to lay too much stress upon incomplete statistics; the figures above are not put forward as conclusive, and we are prepared to examine any further evidence with regard to the state of trade with these neutral countries, which may point to a different conclusion or show that it is the action of His Majesty's Government in particular, and not the existence of a state of war and consequent diminution of purchasing power and shrinkage of trade, which is responsible for adverse effects upon trade with neutral countries.

That the existence of a state of war on such a scale has had a very adverse effect upon certain great industries, such as cotton, is obvious; but it is submitted that this is due to the general cause of diminished purchasing power of such countries as France, Germany, and the United Kingdom, rather than to interference with trade with neutral countries. In the matter of cotton, it may be recalled that the British Government gave special assistance through the Liverpool Cotton Exchange to the renewal of transactions in the cotton trade of not only the United Kingdom but of many neutral countries.

Your Excellency's note refers in particular to the detention of copper. The figures taken from official returns for the export of copper from the United States for Italy for the months during which the war has been in progress up to the end of the first three weeks of December are as follows:—

1913: 15,202,000 lbs. 1914: 36,285,000 lbs.

Norway, Sweden, Denmark, and Switzerland are not shown separately for the whole period in the United States returns, but are included in the heading "Other Europe" (that is, Europe other than the United Kingdom,

Russia, France, Belgium, Austria, Germany, Holland, and Italy). The corresponding figures under this heading are as follows:—

1913: 7,271,000 lbs. 1914: 35,347,000 lbs.

With such figures the presumption is very strong that the bulk of the copper consigned to these countries has recently been intended, not for their own use, but for that of a belligerent who cannot import it direct. It is therefore an imperative necessity for the safety of this country while it is at war that His Majesty's Government should do all in their power to stop such part of this import of copper as is not genuinely destined for neutral countries.

Your Excellency does not quote any particular shipment of copper to Sweden which has been detained. There are, however, four consignments to Sweden at the present time of copper and aluminum which, though definitely consigned to Sweden, are, according to positive evidence in the possession of His Majesty's Government, definitely destined for Germany.

I cannot believe that, with such figures before them, and in such cases as those just mentioned, the Government of the United States would question the propriety of the action of His Majesty's Government in taking suspected cargoes to a prize court, and we are convinced that it cannot be in accord with the wish either of the Government or of the people of the United States to strain the international code in favor of private interests so as to prevent Great Britain from taking such legitimate means for this purpose as are in her power.

With regard to the seizure of foodstuffs to which your Excellency refers, His Majesty's Government are prepared to admit that foodstuffs should not be detained and put into a prize court without presumption that they are intended for the armed forces of the enemy or the enemy Government. We believe that this rule has been adhered to in practice hitherto; but, if the United States Government have instances to the contrary, we are prepared to examine them, and it is our present intention to adhere to the rule, though we cannot give an unlimited and unconditional undertaking in view of the departure by those against whom we are fighting from hitherto accepted rules of civilization and humanity, and the uncertainty as to the extent to which such rules may be violated by them in future.

From the 4th August last to the 3rd January the number of steamships proceeding from the United States for Holland, Denmark, Norway, Sweden, and Italy has been 773. Of these there are forty-five which have had consignments or cargoes placed in the prize court, while of the ships

themselves only eight have been placed in the prize court, and one of these has since been released. It is, however, essential under modern conditions that, where there is real ground for suspecting the presence of contraband, the vessels should be brought into port for examination; in no other way can the right of search be exercised, and but for this practice it would have to be completely abandoned. Information was received by us that special instructions had been given to ship rubber from the United States under another designation to escape notice, and such cases have occurred in several instances. Only by search in a port can such cases, when suspected, be discovered and proved. The necessity for examination in a port may also be illustrated by a hypothetical instance, connected with cotton, which has not yet occurred. Cotton is not specifically mentioned in your Excellency's note, but I have seen public statements made in the United States that the attitude of His Majesty's Government with regard to cotton has been ambiguous, and thereby responsible for depression in the cotton trade. There has never been any foundation for this allegation. His Majesty's Government have never put cotton on the list of contraband; they have throughout the war kept it on the free list; and, on every occasion when questioned on the point, they have stated their intention of adhering to this practice. But information has reached us that, precisely because we have declared our intention of not interfering with cotton, ships carrying cotton will be specially selected to carry concealed contraband; and we have been warned that copper will be concealed in bales of cotton. Whatever suspicions we have entertained, we have not so far made these a ground for detaining any ship carrying cotton; but, should we have information giving us real reason to believe in the case of a particular ship that the bales of cotton concealed copper or other contraband, the only way to prove our case would be to examine and weigh the bales; a process that could be carried out only by bringing the vessel into a port. In such a case, or in any other, if examination justified the action of His Majesty's Government, the case shall be brought before a prize court and dealt with in the ordinary way.

That the decisions of British prize courts hitherto have not been unfavorable to neutrals is evidenced by the decision in the *Miramichi* case. This case, which was decided against the Crown, laid down that the American shipper was to be paid, even when he had sold a cargo c. i. f., and when the risk of loss after the cargo had been shipped did not apply to him at all.

It has further been represented to His Majesty's Government, though this subject is not dealt with in your Excellency's note, that our embargoes

on the export of some articles, more especially rubber, have intertered with commercial interests in the United States. It is, of course, difficult for His Majesty's Government to permit the export of rubber from British dominions to the United States at a time when rubber is essential to belligerent countries for carrying on the war, and when a new trade in exporting rubber from the United States in suspiciously large quantities to neutral countries has actually sprung up since the war. It would be impossible to permit the export of rubber from Great Britain unless the right of His Majesty's Government were admitted to submit to a prize court cargoes of rubber exported from the United States, which they believed to be destined for an enemy country, and reasonable latitude of action for this purpose were conceded. But His Majesty's Government have now provisionally come to an arrangement with the rubber exporters in Great Britain which will permit of licenses being given under proper guarantees for the export of rubber to the United States.[1]

We are confronted with the growing danger that neutral countries contiguous to the enemy will become, on a scale hitherto unprecedented, a base of supplies for the armed forces of our enemies and for materials for manufacturing armament. The trade figures of imports show how strong this tendency is, but we have no complaint to make of the attitude of the Governments of those countries, which, so far as we are aware, have not departed from proper rules of neutrality. We endeavor, in the interest of our own national safety, to prevent this danger by intercepting goods really destined for the enemy, without interfering with those which are *bona fide* neutral.

[1] American users of rubber sign an agreement in terms like the following:

"We hereby agree that any quotations asked for, and any purchases made by us from you or another of any of your products, shall be in each and every case only for domestic use or shipment to Great Britain, France or Russia. We pledge ourselves to this fact, and agree that the execution of this document shall be binding on us for such length of time as you shall consider it to be effective, and cancellable only by you.

"We further agree to submit to any and all investigations that may be necessary on your part, and to give free access to any and all of our books, if called on so to do, to establish the fact of our nonexporting, or selling to another to export, in violation of this agreement.

"And further, we agree that any order, even though accepted by you, may be cancelled without redress on our part at your option for any causes whatsoever, during the period that a state of war exists abroad, between Great Britain and any other country.

"In case we tender any order that is for shipment out of this country, we will in each instance state thereon its destination."—*Editorial note.*

Since the outbreak of the war the Government of the United States have changed their previous practice, and have prohibited the publication of manifests till thirty days after the departure of vessels from the United States ports. We had no *locus standi* for complaining of this change, and did not complain. But the effect of it must be to increase the difficulty of ascertaining the presence of contraband, and to render necessary, in the interest of our national safety, the examination and detention of more ships than would have been the case if the former practice had continued.[1]

[1] The practice of which the British secretary for foreign affairs here complains has since been discontinued. It was in force about three months.

The following notice to exporters (*Commerce Reports*, January 6, 1915, page 50) indicates American practice in respect to manifests:

The attention of exporters is respectfully called to the importance of having foreign shipping manifests complete and accurate, in order to avoid delay incident to search while in transit.

Cases have occurred where manifests have been incomplete or inaccurate, and where it is claimed efforts have been made to conceal the nature of the goods carried. Even a few cases of this kind may throw suspicion upon other American commerce, and through delay work injury to our foreign trade. While a shipowner who knowingly becomes a party to such a transaction may be liable to such of his patrons as may unjustly suffer thereby, still this is not a sufficient protection since it does not safeguard other shippers who suffer inconvenience because of occasional derelictions of those who inaccurately describe or conceal the character of their shipments.

The Government is making every practicable effort to secure the uninterrupted flow of American commerce and to reduce to a minimum such delays as may be unavoidable in time of war. It looks with confidence for co-operation from the American business public to prevent such action on the part of shippers as adds unnecessarily to the difficulties of business at this time.

Whenever shippers desire such aid in carrying on their foreign business the Treasury Department will furnish, upon application to the Customs Collector at any port, an officer to supervise the loading of cargo and to certify to the completeness and accuracy of the manifest.

As a further precaution it is suggested that shippers accompany ship's manifest with an affidavit stating that the articles shipped are correctly shown by the manifest and that the packages contain nothing except that which is shown thereon.

ANDREW J. PETERS,
Acting Secretary of the Treasury.

Approved:
W. J. BRYAN,
Secretary of State.
WILLIAM C. REDFIELD,
Secretary of Commerce.

WASHINGTON, D.C., *January 4, 1915.*

—*Editorial note.*

Pending a more detailed reply, I would conclude by saying that His Majesty's Government do not desire to contest the general principles of international law on which they understand the note of the United States to be based, and desire to restrict their action solely to interference with contraband destined for the enemy.

His Majesty's Government are prepared, whenever a cargo coming from the United States is detained, to explain the case on which such detention has taken place, and would gladly enter into any arrangement by which mistakes can be avoided and reparation secured promptly when any injury to the neutral owners of a ship or cargo has been improperly caused, for they are most desirous, in the interest both of the United States and of other neutral countries, that British action should not interfere with the normal importation and use by the neutral countries of goods from the United States.

I have, &c.

E. GREY.

3. The British Secretary of State for Foreign Affairs to the American Ambassador.

FOREIGN OFFICE, February 10, 1915.

Sir,

YOUR Excellency has already received the preliminary answer, which I handed to you on the 7th January, in reply to your note of the 28th December on the subject of the seizures and detentions of American cargoes destined for neutral European ports.

Since that date I have had further opportunity of examining into the trade statistics of the United States as embodied in the customs returns, in order to see whether the belligerent action of Great Britain has been in any way the cause of the trade depression which your Excellency describes as existing in the United States, and also whether the seizures of vessels or cargoes which have been made by the British Navy have inflicted any loss on American owners for which our existing machinery provides no means of redress. In setting out the results of my investigation I think it well to take the opportunity of giving a general review of the methods employed by His Majesty's Government to intercept contraband trade with the enemy, of their consistency with the admitted right of a belligerent to intercept such trade, and also of the extent to which they have endeavored to meet the representations and complaints from time to time addressed to them on behalf of the United States Government.

Toward the close of your note of the 28th December your Excellency

described the situation produced by the action of Great Britain as a pitiful one to the commercial interests of the United States, and said that many of the great industries of the country were suffering because their products were denied long-established markets in neutral European countries contiguous to the nations at war.

It is unfortunately true that in these days, when trade and finance are cosmopolitan, any war—particularly a war of any magnitude—must result in a grievous dislocation of commerce including that of the nations which take no part in the war. Your Excellency will realize that in this tremendous struggle, for the outbreak of which Great Britain is in no way responsible, it is impossible for the trade of any country to escape all injury and loss, but for such His Majesty's Government are not to blame.

I do not understand the paragraph which I have quoted from your Excellency's note as referring to these indirect consequences of the state of war, but to the more proximate and direct effect of our belligerent action in dealing with neutral ships and cargoes on the high seas. Such action has been limited to vessels on their way to enemy ports or ports in neutral countries adjacent to the theater of war, because it is only through such ports that the enemy introduces the supplies which he requires for carrying on the war.

In my earlier note I set out the number of ships which had sailed from the United States for Holland, Denmark, Norway, Sweden, and Italy, and I there stated that only 8 of the 773 had been placed in the prize court, and that only 45 had been temporarily detained to enable particular consignments of cargo to be discharged for the purpose of prize-court proceedings. To measure the effect of such naval action it is necessary to take into consideration the general statistics of the export trade of the United States during the months preceding the outbreak of war and those since the outbreak.

Taking the figures in millions of dollars, the exports of merchandise from the United States for the seven months of January to July, 1914, inclusive, were 1,201, as compared with 1,327 in the corresponding months of 1913, a drop of 126 millions of dollars.

For the months of August, September, October, and November, that is to say, for the four months of the war preceding the delivery of your Excellency's note, the figures of the exports of merchandise were (again in millions of dollars) 667 as compared with 923 in the corresponding months of 1913, a drop of 256 millions of dollars.

If, however, the single article of cotton be eliminated from the comparison, the figures show a very different result. Thus the exports of all articles of

merchandise other than cotton from the United States during the first seven months of 1914 were 966 millions of dollars as against 1,127 millions in 1913, a drop of 161 millions of dollars, or 14½ per cent. On the other hand, the exports of the same articles during the months August to November amounted to 608 millions of dollars as compared with 630 millions in 1913, a drop of only 22 millions, or less than 4 per cent.

It is therefore clear that, if cotton be excluded, the effect of the war has been not to increase but practically to arrest the decline of American exports which was in progress earlier in the year. In fact, any decrease in American exports which is attributable to the war is essentially due to cotton. Cotton is an article which cannot possibly have been affected by the exercise of our belligerent rights, for, as your Excellency is aware, it has not been declared by His Majesty's Government to be contraband of war, and the rules under which we are at present conducting our belligerent operations give us no power in the absence of a blockade to seize or interfere with it when on its way to a belligerent country in neutral ships. Consequently no cotton has been touched.

Into the causes of the decrease in the exports of cotton I do not feel that there is any need for me to enter, because, whatever may have been the cause, it is not to be found in the exercise of the belligerent rights of visit, search, and capture, or in our general right when at war to intercept the contraband trade of our enemy. Imports of cotton to the United Kingdom fell as heavily as those to other countries. No place felt the outbreak of war more acutely than the cotton districts of Lancashire, where for a time an immense number of spindles were idle. Though this condition has now to a large extent passed away, the consumption of the raw material in Great Britain was temporarily much diminished. The same is no doubt true of France.

The general result is to show convincingly that the naval operations of Great Britain are not the cause of any diminution in the volume of American exports, and that if the commerce of the United States is in the unfavorable condition which your Excellency describes, the cause ought in fairness to be sought elsewhere than in the activities of His Majesty's naval forces.

I may add that the circular issued by the Department of Commerce at Washington on the 23rd January, admits a marked improvement in the foreign trade of the United States, which we have noted with great satisfaction. The first paragraph of the circular is worth quoting verbatim:

A marked improvement in our foreign trade is indicated by the latest reports issued by the Department of Commerce through its Bureau of Foreign and

Domestic Commerce, sales of foodstuffs and certain lines of manufactures having been unusually large in November, the latest period for which detailed information is at hand. In that month exports aggregated 206,000,000 dollars, or double the total for August last, when, by reason of the outbreak of war, our foreign trade fell to the lowest level reached in many years. In December there was further improvement, the month's exports being valued at 246,000,000 dollars, compared with 233,000,000 in December, 1913, and within 4,000,000 of the high record established in December, 1912.

A better view of the situation is obtained by looking at the figures month by month. The exports of merchandise for the last five months have been (in millions of dollars):

August	110
September	156
October	194
November	205
December	246

The outbreak of war produced in the United States, as it did in all neutral countries, an acute but temporary disturbance of trade. Since that time there seems to have been a steady recovery, for to-day the exports from the United States stand at a higher figure than on the same date last year.

Before passing away from the statistics of trade, and in order to demonstrate still more clearly if necessary that the naval operations of Great Britain and her allies have had no detrimental effect on the volume of trade between the United States and neutral countries, it is worth while to analyze the figures of the exports to Europe since the outbreak of hostilities. For this purpose the European countries ought to be grouped under three heads: Great Britain and those fighting with her, neutral countries, and enemy countries. It is, however, impossible for me to group the countries in this way satisfactorily, as the figures relating to the export trade of the United States with each country have not yet been published. In the preliminary statement of the export trade of the United States with foreign countries only principal countries are shown, and various countries which are tabulated separately in the more detailed monthly summary of commerce and finance are omitted. Those omitted include not only the Scandinavian countries, the exports to which are of peculiar importance in dealing with this question, but also Austria.

So far as it is possible to distribute the figures under the headings which I have indicated above (all the figures being given in thousands of dollars), the results are as follows:

Total exports to Europe from the 1st August to the 30th November, 413,995, as against 597,342 in 1913. Of these, Great Britain and her allies took 288,312, as against 316,805 in 1913. Germany and Belgium took 1,881, as against 177,136 in 1913; whereas neutral countries (among which Austria-Hungary is unavoidably included) took 123,802, as against 103,401 in 1913.

The general complaint in your Excellency's note was that the action of Great Britain was affecting adversely the trade of the United States with neutral countries. The naval operations of Great Britain certainly do not interfere with commerce from the United States on its way to the United Kingdom and the allied countries, and yet the exports to Great Britain and her allies during those four months diminished to the extent of over 28,000,000 dollars, whereas those to neutral countries and Austria increased by over 20,000,000 dollars.

The inference may fairly be drawn from these figures, all of which are taken from the official returns published by the United States Government, that not only has the trade of the United States with the neutral countries in Europe been maintained as compared with previous years, but also that a substantial part of this trade was, in fact, trade intended for the enemy countries going through neutral ports by routes to which it was previously unaccustomed.

One of the many inconveniences to which this great war is exposing the commerce of all neutral countries is undoubtedly the serious shortage in shipping available for ocean transport, and the consequential result of excessive freights.

It cannot fairly be said that this shortage is caused by Great Britain's interference with neutral ships. At the present time there are only seven neutral vessels awaiting adjudication in the prize courts in this country, and three in those in the British dominions. As your Excellency is aware, I have already instructed our ambassador at Washington to remind the parties who are interested in these vessels that it is open to them to apply to the court for the release of these ships on bail, and if an application of this sort is made by them it is not likely to be opposed by the Crown. There is therefore no reason why such an application should not be favorably entertained by the court, and, if acceded to, all these vessels will again be available for the carriage of commerce. Only one neutral vessel is now detained in this country in addition to those awaiting adjudication in the prize court.

Every effort has been made in cases in which it has been found necessary to institute proceedings against portions of the cargo to secure the speedy

discharge of the cargo and the release of the ship, so as to enable it to resume work. Great Britain is suffering from the shortage of shipping and the rise in freights as acutely as, if not more than, other nations and His Majesty's Government have taken every step that they could consistently with their belligerent interests to increase the tonnage available for the transport of sea-borne commerce. The enemy ships which have been condemned in the prize courts in this country are being sold as rapidly as possible in order that they may become available for use; and those which have been condemned in the prize courts oversea are being brought to this country in order that they may be disposed of here, and again placed in active employment.

The difficulties have been accentuated by the unforeseen consequences of the convention which was signed at The Hague in 1907 relative to the status of enemy merchant vessels at the outbreak of war. This convention was a well-intentioned effort to diminish the losses which war must impose upon innocent persons, and provided that enemy merchant ships seized by a belligerent in whose ports they lay at the outbreak of war should not be condemned, but should merely be detained for the period of the war, unless they were liberated in the days of grace. We could come to no arrangement with the German Government for the reciprocal grant of days of grace, and the German merchant vessels lying in British ports when the war broke out have therefore been sentenced to detention in lieu of condemnation. The normal result would have been still further to reduce the volume of shipping available for the commerce of the world. To ease the situation, however, His Majesty's Government are resorting to the power of requisitioning which is given by the convention, so that these ships may again be placed in active service.

Your Excellency will see therefore that His Majesty's Government are doing all in their power to increase the volume of shipping available. I hope it will be realized that the detention of neutral ships by His Majesty's Government with a view to the capture of contraband trade on its way to the enemy has not contributed nearly so much to the shortage of shipping as has the destruction of neutral vessels by submarine mines indiscriminately laid by the enemy on the high seas, many miles from the coast, in the track of merchant vessels. Up till now twenty-five neutral vessels have been reported as destroyed by mines on the high seas; quite apart from all questions of the breach of treaties and the destruction of life, there is far more reason for protest on the score of belligerent interference with innocent neutral trade through the mines scattered by the enemy than through the British exercise of the right of seizing contraband.

I trust that what I have said above will be sufficient to convince your Excellency's Government that the complaints that the naval policy of Great Britain has interfered with the shipments of American products to long-established markets in neutral European countries is founded on a misconception.

In justice to the peoples of both countries, I feel that this opportunity should be taken to explain the lines on which His Majesty's Government have been acting hitherto, so as to show that the line they have followed is in no way inconsistent with the general fundamental principle of international law, and to indicate the care with which they have endeavored to meet the representations which have been made by the United States Government from time to time during the war on these questions.

No one in these days will dispute the general proposition that a belligerent is entitled to capture contraband goods on their way to the enemy; that right has now become consecrated by long usage and general acquiescence. Though the right is ancient, the means of exercising it alter and develop with the changes in the methods and machinery of commerce. A century ago the difficulties of land transport rendered it impracticable for the belligerent to obtain supplies of sea-borne goods through a neighboring neutral country. Consequently the belligerent actions of his opponents neither required nor justified any interference with shipments on their way to a neutral port. This principle was recognized and acted on in the decisions in which Lord Stowell laid down the lines on which captures of such goods should be dealt with.

. The advent of steam power has rendered it as easy for a belligerent to supply himself through the ports of a neutral contiguous country as through his own, and has therefore rendered it impossible for his opponent to refrain from interfering with commerce intended for the enemy merely because it is on its way to a neutral port.

No better instance of the necessity of countering new devices for dispatching contraband goods to an enemy by new methods of applying the fundamental principle of the right to capture such contraband can be given than the steps which the Government of the United States found it necessary to take during the American Civil War. It was at that time that the doctrine of continuous voyage was first applied to the capture of contraband, that is to say, it was then for the first time that a belligerent found himself obliged to capture contraband goods on their way to the enemy, even though at the time of capture they were *en route* for a neutral port from which they were intended subsequently to continue their journey. The policy then followed by the United States Government was not inconsistent

with the general principles already sanctioned by international law, and met with no protest from His Majesty's Government, though it was upon British cargoes and upon British ships that the losses and the inconvenience due to this new development of the application of the old rule of international law principally fell. The criticisms which have been directed against the steps then taken by the United States came, and come, from those who saw in the methods employed in Napoleonic times for the prevention of contraband a limitation upon the right itself, and failed to see that in Napoleonic times goods on their way to a neutral port were immune from capture, not because the immediate destination conferred a privilege, but because capture under such circumstances was unnecessary.

The facilities which the introduction of steamers and railways have given to a belligerent to introduce contraband goods through neutral ports have imposed upon his opponent the additional difficulty, when endeavoring to intercept such trade, of distinguishing between the goods which are really destined for the commerce of that neutral country and the goods which are on their way to the enemy. It is one of the many difficulties with which the United States Government found themselves confronted in the days of the Civil War, and I cannot do better than quote the words which Mr. Seward, who was then Secretary of State, used in the course of the diplomatic discussion arising out of the capture of some goods on their way to Matamoros which were believed to be for the insurgents:

> Neutrals engaged in honest trade with Matamoros must expect to experience inconvenience from the existing blockade of Brownsville and the adjacent coast of Texas. While this Government unfeignedly regrets this inconvenience, it cannot relinquish any of its belligerent rights to favor contraband trade with insurgent territory. By insisting upon those rights, however, it is sure that that necessity for their exercise at all, which must be deplored by every friendly commercial Power, will the more speedily be terminated.

The opportunities now enjoyed by a belligerent for obtaining supplies through neutral ports are far greater than they were fifty years ago, and the geographical conditions of the present struggle lend additional assistance to the enemy in carrying out such importation. We are faced with the problem of intercepting such supplies when arranged with all the advantages that flow from elaborate organization and unstinted expenditure. If our belligerent rights are to be maintained, it is of the first importance for us to distinguish between what is really *bona fide* trade intended for the neutral country concerned and the trade intended for the enemy country. Every effort is made by organizers of this trade to conceal the true

destination, and if the innocent neutral trade is to be distinguished from the enemy trade it is essential that His Majesty's Government should be entitled to make, and should make, careful inquiry with regard to the destination of particular shipments of goods even at the risk of some slight delay to the parties interested. If such inquiries were not made, either the exercise of our belligerent rights would have to be abandoned, tending to the prolongation of this war and the increase of the loss and suffering which it is entailing upon the whole world, or else it would be necessary to indulge in indiscriminate captures of neutral goods and their detention throughout all the period of the resulting prize-court proceedings. Under the system now adopted it has been found possible to release without delay, and consequently without appreciable loss to the parties interested, all the goods of which the destination is shown as the result of the inquiries to be innocent.

It may well be that the system of making such inquiries is to a certain extent a new introduction, in that it has been practiced to a far greater extent than in previous wars; but if it is correctly described as a new departure, it is a departure which is wholly to the advantage of neutrals, and which has been made for the purpose of relieving them so far as possible from loss and inconvenience.

There was a passage in a note which the State Department addressed to the British ambassador at Washington on the 7th November to which I think it may be well to refer:

> In the opinion of this Government, the belligerent right of visit and search requires that the search should be made on the high seas at the time of the visit, and that the conclusion of the search should rest upon the evidence found on the ship under investigation, and not upon circumstances ascertained from external sources.

The principle here enunciated appears to me to be inconsistent with the practice in these matters of the United States Government, as well as of the British Government. It certainly was not the rule upon which the United States Government acted either during the Civil War or during the Spanish-American War, nor has it ever been the practice of the British Government, nor so far as I am aware, of any other Government which has had to carry on a great naval war; as a principle I think it is impossible in modern times. The necessity for giving the belligerent captor full liberty to establish by all the evidence at his disposal the enemy destination with which the goods were shipped was recognized in all the leading decisions in the prize courts of the United States during the Civil War.

No clearer instance could be given than the reporter's statement of the case of the *Bermuda* (3 Wallace, 514):

The final destination of the cargo in this particular voyage was left so skilfully open . . . that it was not quite easy to prove, with that certainty which American courts require, the intention, which it seemed plain must have really existed. Thus to prove it required that truth should be collated from a variety of sources, darkened and disguised; from others opened as the cause advanced, and by accident only; from coincidences undesigned, and facts that were circumstantial. Collocations and comparisons, in short, brought largely their collective force in aid of evidence that was more direct.

It is not impossible that the course of the present struggle will show the necessity for belligerent action to be taken in various ways which may at first sight be regarded as a departure from old practice. In my note of the 7th January, I dealt at some length with the question of the necessity of taking vessels into port for the purposes of carrying out an effective search, where search was necessary; to that subject I feel that I need not again recur.

The growth in the size of steamships necessitates in many cases that the vessel should go into calm water, in order that even the right of visit, as apart from the right of search, should be exercised. In modern times a steamer is capable of pursuing her voyage irrespective of the conditions of the weather. Many of the neutral merchantmen which our naval officers are called upon to visit at sea are encountered by our cruisers in places and under conditions which render the launching of a boat impossible. The conditions during winter in the North Atlantic frequently render it impracticable for days together for a naval officer to board a vessel on her way to Scandinavian countries. If a belligerent is to be denied the right of taking a neutral merchantman, met with under such conditions, into calm water in order that the visiting officer may go aboard, the right of visit and of search would become a nullity.

The present conflict is not the first in which this necessity has arisen: as long ago as the Civil War the United States found it necessary to take vessels to United States ports in order to determine whether the circumstances justified their detention.

The same need arose during the Russo-Japanese War and also during the second Balkan War, when it sometimes happened that British vessels were made to deviate from their course and follow the cruisers to some spot where the right of visit and of search could be more conveniently carried out. In both cases this exercise of belligerent rights, although questioned at first by His Majesty's Government, was ultimately acquiesced in.

No Power in these days can afford during a great war to forego the exercise of the right of visit and search. Vessels which are apparently

harmless merchantmen can be used for carrying and laying mines and even fitted to discharge torpedoes. Supplies for submarines can without difficulty be concealed under other cargo. The only protection against these risks is to visit and search thoroughly every vessel appearing in the zone of operations, and if the circumstances are such as to render it impossible to carry it out at the spot where the vessel was met with the only practicable course is to take the ship to some more convenient locality for the purpose. To do so is not to be looked upon as a new belligerent right, but as an adaptation of the existing right to the modern conditions of commerce. Like all belligerent rights, it must be exercised with due regard for neutral interests, and it would be unreasonable to expect a neutral vessel to make long deviations from her course for this purpose. It is for this reason that we have done all we can to encourage neutral merchantmen on their way to ports contiguous to the enemy country to visit some British port lying on their line of route in order that the necessary examination of the ship's papers, and, if required, of the cargo, can be made under conditions of convenience to the ship herself. The alternative would be to keep a vessel which the naval officers desired to board waiting, it might be for days together, until the weather conditions enabled the visit to be carried out at sea.

No war has yet been waged in which neutral individuals have not occasionally suffered from unjustified belligerent action; no neutral nation has experienced this fact more frequently in the past than Great Britain. The only method by which it is possible to harmonize belligerent action with the rights of neutrals is for the belligerent nation to provide some adequate machinery by which in any such case the facts can be investigated and appropriate redress can be obtained by the neutral individual. In this country such machinery is provided by the powers which are given to the prize court to deal not only with captures, but also with claims for compensation. Order V, Rule 2, of the British prize court rules provides that where a ship has been captured as prize, but has been subsequently released by the captors, or has by loss, destruction, or otherwise ceased to be detained by them, without proceedings for condemnation having been taken, any person interested in the ship (which by Order I, Rule 2, includes goods) wishing to make a claim for costs and damages in respect thereof, shall issue a writ as provided by Order II.[1] A writ so issued will initiate a proceeding, which will follow its ordinary course in the prize court.

[1] The text of the rule itself is here repeated. See *Manual of Emergency Legislation*, 266.—*Editor.*

This rule gives the prize court ample jurisdiction to deal with any claim for compensation by a neutral arising from the interference with a ship or goods by our naval forces. The best evidence that can be given of the discrimination and the moderation with which our naval officers have carried out their duties is to be found in the fact that up to this time no proceedings for the recovery of compensation have been initiated under the rule which I have quoted.

It is the common experience of every war that neutrals whose attempts to engage in suspicious trading are frustrated by a belligerent are wont to have recourse to their Government to urge that diplomatic remonstrances should be made on their behalf, and that redress should be obtained for them in this way. When an effective mode of redress is open to them in the courts of a civilized country by which they can obtain adequate satisfaction for any invasion of their rights which is contrary to the law of nations, the only course which is consistent with sound principle is that they should be referred to that mode of redress, and that no diplomatic action should be taken until their legal remedies have been exhausted, and they are in a position to show *prima facie* denial of justice.

The course adopted by His Majesty's Government during the American Civil War was in strict accordance with this principle. In spite of remonstrances from many quarters, they placed full reliance on the American prize courts to grant redress to the parties interested in cases of alleged wrongful capture by American ships of war, and put forward no claims until the opportunities for redress in those courts had been exhausted. The same course was adopted in the Spanish-American War, when all British subjects who complained of captures or detentions of their ships were referred to the prize courts for relief.

Before leaving this subject may I remind your Excellency of the fact that at your request you are now supplied immediately by this department with particulars of every ship under American colors which is detained, and of every shipment of cargo in which an American citizen appears to be the party interested. Not only is the fact of detention notified to your Excellency, but so far as is practicable the grounds upon which the vessel or cargo has been detained are also communicated to you; a concession which enables any United States citizen to take steps at once to protect his interests.

His Majesty's Government have also done all that lies in their power to insure rapid action when ships are reported in British ports. They realize that the ship and cargo owners may reasonably expect an immediate decision to be taken as to whether the ship may be allowed to proceed,

and whether her cargo or any part of it must be discharged and put into the prize court. Realizing that the ordinary methods of interdepartmental correspondence might cause delays which could be obviated by another method of procedure, they established several months ago a special committee, on which all the departments concerned are represented. This committee sits daily, and is provided with a special clerical staff. As soon as a ship reaches port full particulars are telegraphed to London, and the case is dealt with at the next meeting of the committee, immediate steps being taken to carry out the action decided upon. By the adoption of this procedure it has been found possible to reduce to a minimum the delays to which neutral shipping is exposed by the exercise of belligerent rights, and by the necessity, imposed by modern conditions, of examining with care the destination of contraband articles.

Particular attention is directed in your Excellency's note to the policy we are pursuing with regard to conditional contraband, especially foodstuffs, and it is there stated that a number of American cargoes have been seized without, so far as your Excellency's Government are informed, our being in possession of facts which warranted a reasonable belief that the shipments had in reality a belligerent destination, and in spite of the presumption of innocent use due to their being destined to neutral territory. The note does not specify any particular seizures as those which formed the basis of this complaint, and I am therefore not aware whether the passage refers to cargoes which were detained before or since the Order in Council of the 29th October was issued.

Your Excellency will no doubt remember that soon after the outbreak of war an Order of His Majesty in Council was issued under which no distinction was drawn in the application of the doctrine of continuous voyage between absolute contraband and conditional contraband, and which also imposed upon the neutral owner of contraband somewhat drastic conditions as to the burden of proof of the guilt or innocence of the shipment.

The principle that the burden of proof should always be imposed upon the captor has usually been admitted as a theory. In practice, however, it has almost always been otherwise, and any student of the prize courts' decisions of the past or even of modern wars will find that goods seldom escape condemnation unless their owner was in a position to prove that their destination was innocent. An attempt was made some few years ago, in the unratified Declaration of London, to formulate some definite rules upon this subject, but time alone can show whether the rules there laid down will stand the test of modern warfare.

The rules which His Majesty's Government published in the Order in

Council of the 20th August, 1914, were criticized by the United States Government as contrary to the generally recognized principles of international law, and as inflicting unnecessary hardship upon neutral commerce, and your Excellency will remember the prolonged discussions which took place between us throughout the month of October with a view to finding some new formulæ which should enable us to restrict supplies to the enemy forces, and to prevent the supply to the enemy of materials essential for the making of munitions of war, while inflicting the minimum of injury and interference with neutral commerce.[1] It was with this object that the Order in Council of the 29th October was issued, under the provisions of which a far greater measure of immunity is conferred upon neutral commerce. In that Order the principle of noninterference with conditional contraband on its way to a neutral port is in large measure admitted; only in three cases is the right to seize maintained, and in all those cases the opportunity is given to the claimant of the goods to establish their innocence.[2]

[1] The provisions referred to are:

(2) A neutral vessel which succeeded in carrying contraband to the enemy with false papers may be detained for having carried such contraband if she is encountered before she has completed her return voyage.

(3) The destination referred to in article 33 (of the Declaration of London) may be inferred from any sufficient evidence, and, in addition to the presumption laid down in article 34 (of the Declaration), shall be presumed to exist if the goods are consigned to or for an agent of the enemy State or to or for a merchant or other person under the control of the authorities of the enemy State.

(5) Notwithstanding the provisions of article 35 of the said declaration, conditional contraband, if shown to have the destination referred to in article 33, is liable to capture to whatever port the vessel is bound and at whatever port the cargo is to be discharged.—*Manual of Emergency Legislation*, 144.

[2] The provisions referred to are:

(I) A neutral vessel, with papers indicating a neutral destination, which, notwithstanding the destination shown on the papers, proceeds to an enemy port, shall be liable to capture and condemnation if she is encountered before the end of her next voyage.

(II) The destination referred to in article 33 of the said declaration shall (in addition to the presumptions laid down in article 34) be presumed to exist if the goods are consigned to or for an agent of the enemy state.

(III) Notwithstanding the provisions of article 35 of the said declaration, conditional contraband shall be liable to capture on board a vessel bound for a neutral port if the goods are consigned "to order," or if the ship's papers do not show who is the consignee of the goods, or if they show a consignee of the goods in territory belonging to or occupied by the enemy.

(IV) In the cases covered by the preceding paragraph (III) it shall lie upon the owners of the goods to prove that their destination was innocent.—*Manual of Emergency Legislation*, Supplement No. 2, 79.

Two of those cases are where the ship's papers afford no information as to the person for whom the goods are intended. It is only reasonable that a belligerent should be entitled to regard as suspicious cases where the shippers of the goods do not choose to disclose the name of the individual who is to receive them. The third case is that of goods addressed to a person in the enemy territory. In the peculiar circumstances of the present struggle, where the forces of the enemy comprise so large a proportion of the population, and where there is so little evidence of shipments on private as distinguished from Government account, it is most reasonable that the burden of proof should rest upon the claimant.

The most difficult questions in connection with conditional contraband arise with reference to the shipment of foodstuffs. No country has maintained more stoutly than Great Britain in modern times the principle that a belligerent should abstain from interference with the foodstuffs intended for the civil population. The circumstances of the present struggle are causing His Majesty's Government some anxiety as to whether the existing rules with regard to conditional contraband, framed as they were with the object of protecting so far as possible the supplies which were intended for the civil population, are effective for the purpose, or suitable to the conditions present. The principle which I have indicated above is one which His Majesty's Government have constantly had to uphold against the opposition of continental Powers. In the absence of some certainty that the rule would be respected by both parties to this conflict, we feel great doubt whether it should be regarded as an established principle of international law.

Your Excellency will, no doubt, remember that in 1885, at the time when His Majesty's Government were discussing with the French Government this question of the right to declare foodstuffs not intended for the military forces to be contraband, and when public attention had been drawn to the matter, the Kiel Chamber of Commerce applied to the German Government for a statement of the latter's views on the subject. Prince Bismarck's answer was as follows:

In answer to their representation of the 1st instant, I reply to the Chamber of Commerce that any disadvantage our commercial and carrying interests may suffer by the treatment of rice as contraband of war does not justify our opposing a measure which it has been thought fit to take in carrying on a foreign war. Every war is a calamity, which entails evil consequences not only on the combatants, but also on neutrals. These evils may easily be increased by the interference of a neutral Power with the way in which a third carries on the war, to the disadvantage of the subjects of the interfering Power, and by this means

German commerce might be weighted with far heavier losses than a transitory prohibition of the rice trade in Chinese waters. *The measure in question has for its object the shortening of the war by increasing the difficulties of the enemy, and is a justifiable step in war if impartially enforced against all neutral ships.*

His Majesty's Government are disposed to think that the same view is still maintained by the German Government.

Another circumstance which is now coming to light is that an elaborate machinery has been organized by the enemy for the supply of foodstuffs for the use of the German army from overseas. Under these circumstances it would be absurd to give any definite pledge that in cases where the supplies can be proved to be for the use of the enemy forces they should be given complete immunity by the simple expedient of dispatching them to an agent in a neutral port.

The reason for drawing a distinction between foodstuffs intended for the civil population and those for the armed forces or enemy Government disappears when the distinction between the civil population and the armed forces itself disappears. In any country in which there exists such a tremendous organization for war as now obtains in Germany there is no clear division between those whom the Government is responsible for feeding and those whom it is not. Experience shows that the power to requisition will be used to the fullest extent in order to make sure that the wants of the military are supplied, and however much goods may be imported for civil use it is by the military that they will be consumed if military exigencies require it, especially now that the German Government have taken control of all the foodstuffs in the country.

I do not wish to overburden this note with statistics, but in proof of my statement as to the unprecedented extent to which supplies are reaching neutral ports I should like to instance the figures of the exports of certain meat products to Denmark during the months of September and October. Denmark is a country which in normal times imports a certain quantity of such products, but exports still more. In 1913, during the above two months, the United States exports of lard to Denmark were *nil*, as compared with 22,652,598 pounds in the same two months of 1914. The corresponding figures with regard to bacon were: 1913, *nil;* 1914, 1,022,195 pounds; canned beef, 1913, *nil;* 1914, 151,200 pounds; pickled and cured beef, 1913, 42,901 pounds; 1914, 156,143 pounds; pickled pork, 1913, *nil;* 1914, 812,872 pounds.

In the same two months the United States exported to Denmark 280,176 gallons of mineral lubricating oil in 1914, as compared with 179,252 in 1913;

to Norway, 335,468 gallons in 1914, as against 151,179 gallons in 1913; to Sweden, 896,193 gallons in 1914, as against 385,476 gallons in 1913.

I have already mentioned the framing of the Order in Council of the 29th October, and the transmission to your Excellency of particulars of ships and cargoes seized as instances of the efforts which we have made throughout the course of this war to meet all reasonable complaints made on behalf of American citizens, and in my note of the 7th January I alluded to the decision of our prize court in the case of the *Miramichi*, as evidencing the liberal principles adopted toward neutral commerce.

I should also like to refer to the steps which we took at the beginning of the war to insure the speedy release of cargo claimed by neutrals on board enemy ships which were captured or detained at the outbreak of war. Under our prize-court rules release of such goods can be obtained without the necessity of entering a claim in the prize court if the documents of title are produced to the officer representing His Majesty's Government, and the title to the goods is established to his satisfaction. It was shortly found, however, that this procedure did not provide for the case where the available evidence was so scanty that the officer representing the Crown was not justified in consenting to a release. In order, therefore, to ameliorate the situation we established a special committee, with full powers to authorize the release of goods without insisting on full evidence of title being produced. This committee dealt with the utmost expedition with a large number of claims. In the great majority of cases the goods claimed were released at once. In addition to the cases dealt with by this committee a very large amount of cargo was released at once by the procurator general on production of documents. Claimants therefore obtained their goods without the necessity of applying to the prize court and of incurring the expense involved in retaining lawyers, and without the risk, which was in some cases a considerable one, of the goods being eventually held to be enemy property and condemned. We have reason to know that our action in this matter was highly appreciated by many American citizens.

Another instance of the efforts which His Majesty's Government have made to deal as leniently as possible with neutral interests may be found in the policy which we have followed with regard to the transfer to a neutral flag of enemy ships belonging to companies which were incorporated in the enemy country, but all of whose shareholders were neutral. The rules applied by the British and by the American prize courts have always treated the flag as conclusive in favor of the captors in spite of neutral proprietary interests (see the case of the *Pedro*, 175 U. S. 354). In several cases, however, we have consented to waive our belligerent rights to treat as enemy

vessels ships belonging to companies incorporated in Germany which were subsidiary to and owned by American corporations. The only condition which we have imposed is that these vessels should take no further part in trade with the enemy country.

I have given these indications of the policy which we have followed, because I cannot help feeling that if the facts were more fully known as to the efforts which we have made to avoid inflicting any avoidable injury on neutral interests, many of the complaints which have been received by the administration in Washington, and which led to the protest which your Excellency handed to me on the 29th December would never have been made. My hope is that when the facts which I have set out above are realized, and when it is seen that our naval operations have not diminished American trade with neutral countries, and that the lines on which we have acted are consistent with the fundamental principles of international law, it will be apparent to the Government and people of the United States that His Majesty's Government have hitherto endeavored to exercise their belligerent rights with every possible consideration for the interests of neutrals.

It will still be our endeavor to avoid injury and loss to neutrals, but the announcement by the German Government of their intention to sink merchant vessels and their cargoes without verification of their nationality or character, and without making any provision for the safety of non-combatant crews or giving them a chance of saving their lives, has made it necessary for His Majesty's Government to consider what measures they should adopt to protect their interests. It is impossible for one belligerent to depart from rules and precedents and for the other to remain bound by them.

I have, &c.,

E. GREY.

4. The American Ambassador at London to the Secretary of State, *ad interim.*

(TELEGRAM.)

AMERICAN EMBASSY,
LONDON, June 22, 1915.

No. 2325.]

Lord Crewe, in charge of Foreign Office during Sir Edward Grey's temporary absence, has just handed me a printed memorandum dated June 17. It is not an answer to the principles set forth in the note transmitted in your 1343 of March 30, but merely an explanation of concrete cases and the

regulations under which they are dealt with. Foreign Office wishes to arrange for simultaneous publication here and in Washington morning of 25th inst. Please telegraph if this date is satisfactory. Memorandum reads as follows:

"1. His Majesty's Government have on various occasions, and notably in the communication which was addressed to the United States Ambassador on the 15th of March last, given assurances to the United States Government that they would make it their first aim to minimize the inconvenience which must inevitably be caused to neutral commerce from the existence of a state of war at sea, and in particular from the measures taken by the Allied Governments for the restriction of the enemy's oversea trade. In view of the representation and complaints made to this department by the Ambassador from time to time as to the peculiar hardships alleged to have been wrongly inflicted on American trade and shipping by the operation of those measures, His Majesty's Government desire to offer the following observations respecting the manner in which they have consistently endeavored to give practical effect to those assurances.

"2. It will be recalled that, at the moment when His Majesty's Government announced their measures against enemy commerce, they declared their intention to refrain altogether from the exercise of the right to confiscate ships or cargoes, which belligerents had always previously claimed in respect to breaches of blockade; that, under Article Five (1) of the enactment of the 11th March, it was expressly provided that any person claiming to be interested in goods placed in the prize court in pursuance of the provision of that enactment, might forthwith issue a writ against the proper officer of the Crown, the object being to confer upon claimants the right to institute proceedings without waiting for the writ of the procurator general, and thus to remove all possible cause of legitimate grievance on account of delay; and that, finally, a pacific assurance was given to the United States Government that the instructions to be issued by His Majesty's Government to the fleet, and to the customs officials and executive officials concerned, would impress upon them the duty of acting with the utmost dispatch consistent with the object in view, and of showing in every case such consideration for neutrals as might be compatible with that object, namely, to prevent vessels carrying goods for, or coming from, the enemy's territory.

"3. The above measures were all designed to alleviate the burdens imposed upon neutral sea-borne commerce in general. Various special concessions, over and above those enumerated, have, moreover, been made in favor of United States citizens.

"4. Thus His Majesty's Government have acted, as regards shipments of American cotton, in accordance with the provisions of an arrangement arrived at in direct collaboration with representatives of the American cotton interests. In accepting this scheme, the principal representative of those interests described it as conceding all that American interests could properly ask. The provisions of the arrangement were, as the United States Ambassador is aware, as follows:

"'(1) All cotton for which contracts of sale and freight engagements have already been made before the 2d March is to be allowed free [or bought at contract price if stopped], provided the ship sails not later than the 31st March.

"'(2) Similar treatment is to be accorded to all cotton insured before the 2d March, provided it is put on board not later than the 16th March.

"'(3) All shipments of cotton claiming the above protection are to be declared before sailing, and documents produced to, and certificates obtained from, consular officers or other authority fixed by the Government.'

"5. Considerable shipments of cotton have already been dealt with under this arrangement, and in certain cases the dates specified have been extended in favor of American shippers. The Board of Trade have already paid a sum exceeding £450,000 to various American claimants, and all claims are being and will continue to be paid as rapidly as they are presented and the proofs of title can be checked. If in some cases progress has been delayed, this has been due to the fact which has seriously embarrassed His Majesty's Government—that a number of consignments, for which the American shippers had specifically invoked the protection of the arrangement, are now claimed by Swedish and Dutch firms, whose title of ownership, notwithstanding the action of the American shippers, appears in some cases to be valid, and in others has led to the issue of writs in the prize court.

"6. It has been explicitly acknowledged by the special representatives of the American claimants, who have been in constant and direct communication with the Board of Trade, that all the claims so far submitted under the cotton arrangement have been settled with the utmost promptitude so soon as the production of the necessary documents by the claimants allowed of this being done. There is, at the present moment, no claim before His Majesty's Government that has not been paid, and the sums so paid over are already considerably in excess of the amounts realized by the sale of the goods.

"7. As regards the more general allegation of delay in dealing with cases of detained cargoes, the following facts and figures may be quoted:

"'The total number of vessels which, having cleared from United States ports since the initiation of the retaliatory measures against German trade, are still detained in United Kingdom ports, is 27; of this number, 8 are discharging cotton which His Majesty's Government have agreed to purchase under the above arrangement. Of the remaining 19 vessels, 7 are free to depart so soon as the items of their cargo placed in the prize court have been discharged. The other 12, of which 3 only are American ships, are detained pending inquiries as to suspicious consignments, and particulars as to the dates and approximate causes of detention are furnished in the accompanying list.[1] It will be observed that 8 have been detained for a period of less than a week, and 3 for a period of less than a fortnight, while the detention of 1 is due to the difficulties in regard to transit across Sweden and Russia.'

"8. His Majesty's Government remain convinced that, on an impartial review of the facts, they will be admitted that no arbitrary interference with American interests has, in regard to cotton cargoes, occurred; while if due regard be paid to the enormous volume of American and neutral shipping which is continually engaged in the trans-Atlantic trade, the figures and dates quoted in the preceding paragraph will emphasize the restricted nature of any interference which has taken place and the close attention with which the officials concerned have adhered to their instructions to act in all cases with expedition and with every possible consideration for neutrals.

"9. Since His Majesty's Government have been compelled to adopt their present measures against German commerce, they have given special consideration to the question of avoiding as far as possible unnecessary damage to the interests of neutrals in regard to the export of goods of German origin, and here again liberal concessions have been made to United States citizens. Under the rules enacted on the 11th March provision is made for the investigation of all neutral claims respecting such goods in the prize court, and it is obvious that these claims can receive due and equitable consideration most properly before a judicial tribunal. Nevertheless, in deference to the express desire of the United States Government, arrangements were made toward the end of March whereby United States citizens who might desire to import goods of German origin via a neutral port were enabled to produce proof of payment to His Majesty's Embassy at Washington. If such proof were deemed satisfactory, His Majesty's Government gave an undertaking that the goods concerned should not be interfered with in transit, and the American importer was freed from the necessity of submitting his claim to the prize court in London for adjudication. A few days later

[1] List omitted from official American copy.

His Majesty's Government further agreed to recognize the neutral ownership of goods of enemy origin even if not paid for before the 1st March, provided they were the subject of an f. o. b. contract of earlier date, and had arrived at a neutral port before the 15th of March.

"10. Special treatment has also been accorded to cargoes of particular products destined for the United States and stated to be indispensable for the industries of the country; and, in notes addressed to the United States Ambassador in April and May, undertakings were given not to interfere during transit with certain cargoes of dyestuffs, potash, and German beet seed.

"11. When it became apparent that large quantities of enemy goods were still passing out through neutral countries, His Majesty's Government felt it necessary to fix a definite date after which such shipments must cease to enjoy the special immunity, theretofore granted, from liability to being placed in the prize court. It had been observed that a large increase had taken place in the number of vessels sailing from neutral countries to America and one of the principal lines of steamships advertise a daily in place of a weekly service. In such circumstances it appeared scarcely possible that goods of enemy origin bought and paid for prior to the 1st March should not have already been shipped to their destination. First June was accordingly fixed as the date after which the privilege allowed in the case of such shipments should cease; but once more a special favor was granted by extending the date in exceptional cases to the 15th June.

"12. Importers in the United States having now had three months in which to clear off their purchases in enemy territory, His Majesty's Government trust that, in presence of the circumstances enumerated, the United States Government will acknowledge the great consideration which has been shown to American interests.

"13. Nevertheless a fresh appeal has now been made to His Majesty's Government that shipments of American-owned goods of enemy origin, if paid for before the beginning of March, should be allowed to be shipped without molestation after the 15th June. The appeal is based principally upon the contentions (A) that insufficient time has already elapsed; (B) that no mention of a time limit is made in the enactment of the 11th March; (C) that the proofs of ownership required by His Majesty's Government are of an exacting nature and involve much time for preparation.

"14. The first contention (A) has already been dealt with. As regards (B) and (C) it is true that the enactment of the 11th March contains no mention of a time limit. But it seems to be overlooked that the time limit had been fixed only for the special immunity granted as an

exception from that enactment. It was as a friendly concession to American interests that His Majesty's Government agreed to an investigation of claims outside the prize court. As for the exacting nature of the proofs required by His Majesty's Government, experience has shown that such proofs were necessary.

"15. In deference, however, to the renewed representations of the United States Ambassador, His Majesty's Government have given further directions that in all such cases, as may have been specially submitted through the British Embassy at Washington or to His Majesty's Government direct on or before the 15th June and passed, the goods shall be allowed to proceed without interference, if shipped from a neutral port on the conditions already laid down, notwithstanding the fact that shipment may not have been made before the 15th June.

"16. His Majesty's Government will also be prepared hereafter to give special consideration to cases presented to them and involving particular hardships, if the goods concerned are required for neutral Governments or municipalities, or in respect of works of public utility, and where payment can be shown to have been made before the 1st March, 1915.

"17. With the above exceptions, His Majesty's Government regret they cannot continue to deal through the diplomatic channel with individual cases, but they would again point out that special provision is made for the consideration of such cases in the prize court.

"18. Complaints have not infrequently been made that undue delay occurs in dealing with American cargoes in the prize court. An interesting comment on this subject was made by the president of the prize court in the case of the cargo ex steamship *Ogeechee* on the 14th instant. His lordship, according to the transcript from the official shorthand writer's notes, made the following observations:

> It is a very extraordinary thing that, when the Crown is ready to go on, the claimants come here and say, "We cannot proceed for six weeks." Some day toward the end of last term I had a row of eminent counsel in front pressing me to fix a case at once. I fixed it very nearly at once—that is to say, the second day of the following term. They all came and said, "We want an adjournment for six weeks."

"19. The solicitor general hereupon remarked:

> If I might say so, one of the reasons I applied today on behalf of the Crown that the matter should be dealt with as soon as possible is for that very reason. There has been such a strong desire on the part of America and American citizens that there should be no delay, but one finds, in fact, the delay comes from there.

"20. The president then stated:

I know that. I do not know what the explanation is, but I am anxious that there should be no delay.

"21. It is true that a number of cases principally relating to cargoes which, though ostensibly consigned to a person in a neutral country, are in reality believed to be destined for the enemy, have been pending in the prize court for some time. The United States Government are aware that most of these cargoes consist of meat and lard, and that much of the delay in bringing these cargoes to adjudication was due to the fact that negotiations were being carried on for many weeks with a representative of the principal American meat packers, for an amicable settlement out of court. When at length, owing to the failure of the negotiations, His Majesty's Government decided that they would continue the prize court proceedings, and had at the request of the claimants fixed the earliest possible date for the hearing, counsel for the latter asked for an adjournment in their interests despite the fact that the Crown was, by his own admission, ready to proceed.

"22. His Majesty's Government are earnestly desirous of removing all causes of avoidable delay in dealing with American cargoes and vessels which may be detained, and any specific inquiries or representations which may be made by the United States Government in regard to particular cases will always receive the most careful consideration and all information which can be afforded without prejudice to prize court proceedings will be readily communicated; but they can scarcely admit that, on the basis of actual facts, any substantial grievance on the part of American citizens is justified or can be sustained, and they therefore confidently appeal to the opinion of the United States Government as enlightened by this memorandum."

PAGE.

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AMERICAN TRADE IN MUNITIONS OF WAR
SINKING OF THE "FRYE"

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V. Foodstuffs Cargo of the "Wilhelmina" in British Prize Court.

1. The Secretary of State to the American Ambassador at London.

(TELEGRAM.)

DEPARTMENT OF STATE,
WASHINGTON, February 15, 1915.

No. 1134.]

The department notes that you have been informed by the British Government that the cargo of the American steamer *Wilhelmina* has been sent to prize court, but is not yet unloaded. The Government of the United States, of course, has no intention of interfering with the proper course of judicial procedure in the British prize courts, but deems it proper to bring to the attention of the British Government information which has been received in relation to the character and destination of the cargo and to point out certain considerations prompting the supposition that the seizure may not be justified.

This Government is informed that the W. L. Green Commission Company, an American corporation organized in 1891, which in the past has made extensive shipments of goods to Germany, is the sole owner of the cargo which consists entirely of foodstuffs consigned to the W. L. Green Commission Company, Hamburg, and that the company's manager, now in Europe, has instructions to sell the cargo solely to the civilian population of Hamburg. A copy of the ship's manifest has been submitted to this Government, accompanied by a sworn statement from the company's manager in which he represents that he was instructed to proceed to Germany to dispose of the cargo to private purchasers in that country, and not to any belligerent government nor armed forces of such government, nor to any agent of a belligerent government or of its armed forces.

According to well-established practice among nations, admitted as this Government understands by the Government of Great Britain, the articles of which the *Wilhelmina's* cargo is said to consist are subject to seizure as contraband only in case they are destined for the use of a belligerent government or its armed forces.

The Government of the United States understands that the British authorities consider the seizure of the cargo justified on the ground that a recent order of the Federal Council of Germany, promulgated after the vessel sailed, required the delivery of imported articles to the German

Government. The owners of the cargo have represented to this Government that such a position is untenable. They point out that, by a provision of the order in question as originally announced, the regulations in relation to the seizure of food products are made inapplicable to such products imported after the 31st January, 1915. They further represent that the only articles shipped on the *Wilhelmina* which are embraced within the terms of these regulations are wheat and bran, which constitute about 15 per centum of the cargo as compared with 85 per centum consisting of meats, vegetables, and fruits. The owners also assert that the regulations contemplate the disposition of foodstuffs to individuals through municipalities; that municipalities are not agents of the Government, and that the purpose of the regulations is to conserve the supply of food products, and to prevent speculation and inflation of prices to noncombatants.

The German Government has addressed a formal communication to the Government of the United States in relation to the effect of the decree issued by the German Federal Council, and this Government deems it pertinent to call to the attention of the British Government a material portion of this communication which is as follows:

"1. The Federal Council's decision concerning the seizure of food products, which England alleges to be the cause of food products shipped to Germany being treated as contraband, bears exclusively on wheat, rye, both unmixed and mixed with other products, and also wheat, rye, oats, and barley flour.

"2. The Federal Council makes an express exception in section 45 of the order. Section 45 provides as follows: The stipulations of this regulation do not apply to grain or flour imported from abroad after the 31st January.

"3. Conjunctively with that saving clause the Federal Council's order contains a provision under which imported cereals and flours would be sold exclusively to the municipalities or certain specially designated organizations by the importers, although that provision had for its object simply to throw imported grain and flours into such channels as supply the private consumption of civilians and, in consequence of that provision, the intent and purpose of the Federal Council's order which was to protect the civilian population from speculators and engrossers were fully met, it was nevertheless rescinded so as to leave no room for doubt.

"4. My Government is amenable to any proposition looking to control by a special American organization under the supervision of the American Consular officers and, if necessary, will itself make a proposition in that direction.

"5. The German Government further calls attention to the fact that municipalities do not form part of or belong to the Government but are self administrative bodies, which are elected by the inhabitants of the Commune in accordance with fixed rules and therefore exclusively represent the private part of the population and act as it directs. Although those principles are generally known and obtain in the United States as well as in England itself, the German Government desired to point out the fact so as to avoid any further unnecessary delay.

"6. Hence it is absolutely assured that imported food products will be consumed by the civilian population in Germany exclusively."

It will be observed that it is stated in this communication, which appears to confirm the contentions of the cargo owners, that a part of the order of the German Federal Council relating to imported food products has now been rescinded.

This Government has received another communication from the German Government giving formal assurance to the Government of the United States that all goods imported into Germany from the United States directly or indirectly, which belong to the class of relative contraband, such as foodstuffs, will not be used by the German army or navy or by Government authorities, but will be left to the free consumption of the German civilian population, excluding all Government purveyors.

If the British authorities have not in their possession evidence, other than that presented to this Government as to the character and destination of the cargo of the *Wilhelmina*, sufficient to warrant the seizure of this cargo, the Government of the United States hopes that the British Government will release the vessel together with her cargo and allow her to proceed to her port of destination.

BRYAN.

2. Memorandum handed to the United States Ambassador, February 19, 1915.

The communication made by the United States Ambassador in his note to Sir Edward Grey of the 16th instant has been carefully considered and the following observations are offered in reply:

2. At the time when His Majesty's Government gave directions for the seizure of the cargo of the steamship *Wilhelmina* as contraband they had before them the text of the decree made by the German Federal Council on the 25th January, under Article 45 of which all grain and flour imported into Germany after the 31st January was declared deliverable only to certain organizations under direct Govern-

ment control or to municipal authorities. The vessel was bound for Hamburg, one of the free cities of the German Empire, the government of which is vested in the municipality. This was one of the reasons actuating His Majesty's Government in deciding to bring the cargo of the *Wilhelmina* before the prize court.

3. Information has only now reached them that by a subsequent decree, dated the 6th February, the above provision in Article 45 of the previous decree was repealed, it would appear for the express purpose of rendering difficult the anticipated proceedings against the *Wilhelmina*. The repeal was not known to His Majesty's Government at the time of detention of the cargo, or indeed, until now.

4. How far the ostensible exception of imported supplies from the general Government monopoly of all grain and flour set up by the German Government may affect the question of the contraband nature of the shipment seized is a matter which will most suitably be investigated by the prize court.

5. It is, however, necessary to state that the German decree is not the only ground on which the submission of the cargo of the *Wilhelmina* to a prize court is justified. The German Government have in public announcements claimed to treat practically every town or port on the English east coast as a fortified place and base of operations. On the strength of this contention they have subjected to bombardment the open towns of Yarmouth, Scarborough, and Whitby, among others. On the same ground, a number of neutral vessels sailing for English ports on the east coast with cargoes of goods on the German list of conditional contraband have been seized by German cruisers and brought before the German prize court. Again, the Dutch vessel *Maria*, having sailed from California with a cargo of grain consigned to Dublin and Belfast, was sunk in September last by the German cruiser *Karlsruhe*. This could only have been justified if, among other things, the cargo could have been proved to be destined for the British Government or armed forces and if a presumption to this effect had been established owing to Dublin or Belfast being considered a fortified place or a base for the armed forces.

6. The German Government cannot have it both ways. If they consider themselves justified in destroying by bombardment the lives and property of peaceful civil inhabitants of English open towns and watering places, and in seizing and sinking ships and cargoes of conditional contraband on the way thither, on the ground that they were consigned to a fortified place or base, *a fortiori* His Majesty's Government must be at liberty to treat Hamburg, which is in part protected by the fortifications at the mouth of the Elbe, as a fortified town, and a base of operations and supply for the purposes of Article 34 of the Declaration of London. If the owners of the cargo of the *Wilhelmina* desire to question the validity in international law of the action taken by order of His Majesty's Government they will have every opportunity of establishing their case in due course before the prize court, and His Majesty's Government would, in this connection, recall the attention of the United States Government to the considerations put forward in Sir Edward Grey's note to Mr. Page of the 10th instant as to the pro-

priety of awaiting the result of prize court proceedings before diplomatic action is initiated. It will be remembered that they have from the outset given a definite assurance that the owners of the *Wilhelmina* as well as the owners of her cargo, if found to be contraband, would be equitably indemnified.

7. There is one further observation to which His Majesty's Government think it right, and appropriate in the present connection, to give expression. They have not, so far, declared foodstuffs to be absolute contraband. They have not interfered with any neutral vessels on account of their carrying foodstuffs, except on the basis of such foodstuffs being liable to capture if destined for the enemy forces or Governments. In so acting they have been guided by the general principle, of late universally upheld by civilized nations, and observed in practice, that the civil populations of countries at war are not to be exposed to the treatment rightly reserved for combatants. This distinction has to all intents and purposes been swept away by the novel doctrines proclaimed and acted upon by the German Government.

8. It is unnecessary here to dwell upon the treatment that has been meted out to the civil population of Belgium, and those parts of France which are in German occupation. When Germany, long before any mines had been laid by British authorities, proceeded to sow mines upon the high seas, and, by this means, sunk a considerable number not only of British but also of neutral merchantmen with their unoffending crews, it was, so His Majesty's Government held, open to them to take retaliatory measures, even if such measures were of a kind to involve pressure on the civil population—not indeed of neutral states—but of their enemies. They refrained from doing so.

9. When, subsequently, English towns and defenseless British subjects, including women and children, were deliberately and systematically fired upon and killed by ships flying the flag of the Imperial German Navy, when quiet country towns and villages, void of defenses, and possessing no military or naval importance, were bombarded by German airships, His Majesty's Government still abstained from drawing the logical consequences from this form of attack on defenseless citizens. Further steps in the same direction are now announced, and in fact have already been taken, by Germany. British merchant vessels have been torpedoed at sight without any attempt being made to give warning to the crew, or any opportunity being given to save their lives; a torpedo has been fired against a British hospital ship in daylight; and similar treatment is threatened to all British merchant vessels in future as well as to any neutral ships that may happen to be found in the neighborhood of the British Isles.

10. Faced with this situation, His Majesty's Government consider it would be altogether unreasonable that Great Britain and her allies should be expected to remain indefinitely bound, to their grave detriment, by rules and principles of which they recognize the justice if impartially observed as between belligerents, but which are at the present moment openly set at defiance by their enemy.

11. If, therefore, His Majesty's Government should hereafter feel constrained to declare foodstuffs absolute contraband, or to take other measures for interfering

with German trade, by way of reprisals, they confidently expect that such action will not be challenged on the part of neutral states by appeals to laws and usages of war whose validity rests on their forming an integral part of that system of international doctrine which as a whole their enemy frankly boasts the liberty and intention to disregard, so long as such neutral states cannot compel the German Government to abandon methods of warfare which have not in recent history been regarded as having the sanction of either law or humanity.

FOREIGN OFFICE, February 19, 1915.

3. The American Ambassador at London to the Secretary of State.

(TELEGRAM.)

AMERICAN EMBASSY,
LONDON, April 8, 1915.

No. 1903.]

THE Prime Minister has just handed me the following, which I have communicated to Hayes and Brooking, who strongly recommend its acceptance by their principals:

His Majesty's Government share the desire of the United States Government for an immediate settlement of the case of the *Wilhelmina*. This American ship laden with foodstuffs left New York for Hamburg on January 22nd. The writ instituting prize court proceedings was issued on February 27th, and claimed that the cargo should be condemned as contraband of war. No proceedings were taken or even threatened against the ship herself, and in the ordinary course the cargo would have been unloaded when seized so that the ship would be free to leave. The owners of the cargo, however, have throughout objected to the discharge of the cargo and it is because of this objection that the ship is still at Falmouth with the cargo on board.

His Majesty's Government have formally undertaken that even should the condemnation of the cargo as contraband be secured in the prize court they would none the less compensate the owners for any loss sustained in consequence of the ship having been stopped and proceedings taken against the cargo.

It was understood at the time that the proceedings in the prize court would be in the nature of a test case, the decision in which would govern the treatment of any subsequent shipments of food supplies to Germany in similar circumstances. Since then the situation has, however, materially changed by the issue of the Order in Council of March 11, 1915,[1] and the measures taken thereunder which prevent further supplies being sent from America to Germany, whether contraband or not.

In these circumstances there is no longer any object in continuing the judicial

[1] See above, pages 60–63.

proceedings in the case of the *Wilhelmina;* for it can no longer serve as a test case, and it is really agreed that the owners of the cargo, even if proved to have no claim, are to be treated as if their claim was good. Nothing therefore remains but to settle the claim on proper and just conditions, and this would, in the opinion of His Majesty's Government, be secured most expeditiously and with the least inconvenience to all parties by an agreement between the Crown and the claimants for the disposal of the whole matter.

His Majesty's Government accordingly propose that such an agreement be arrived at on the following terms:

"His Majesty's Government having undertaken to compensate the claimants by paying for the cargo seized on the basis of the loss of the profit the claimants would have made if the ship had proceeded in due course to Hamburg, and by indemnifying them for the delay caused to the ship so far as this delay has been due to the action of the British authorities, all proceedings in the prize court shall be stayed, on the understanding that His Majesty's Government buy the cargo from the claimants on the above terms. The cargo shall be discharged and delivered to the proper officer of the Crown forthwith. The sum to be paid shall be assessed by a single referee nominated jointly by the ambassador of the United States of America and His Majesty's principal secretary of state for foreign affairs, who shall certify the total amount after making such inquiries as he may think fit, but without formal hearing or arbitration."

His Majesty's Government would be grateful if the United States ambassador would inform the claimants of the above proposal at his early convenience and obtain their acceptance.[1]

PAGE.

[1] The British offer was accepted and it was stated on June 29 that a first instalment of $100,000 would be paid to the owners of the *Wilhelmina*. The complete settlement of the claims followed.

VI. German and Austrian Attitude toward American Trade.

1. The German Ambassador to the Secretary of State.

IMPERIAL GERMAN EMBASSY,
WASHINGTON, April 4, 1915.

No. A2341.]

Mr. Secretary of State: I have the honor to deliver to Your Excellency the inclosed memorandum on German-American trade and the question of delivery of arms.

Accept, etc., J. BERNSTORFF.

MEMORANDUM.

IMPERIAL GERMAN EMBASSY,
WASHINGTON, D.C., April 4, 1915.

No. A2841.]

The various British Orders in Council have one-sidedly modified the generally recognized principles of international law in a way which arbitrarily stops the commerce of neutral nations with Germany. Even before the last British Order in Council, the shipment of conditional contraband, especially food supplies, to Germany was practically impossible. Prior to the protest sent by the American to the British Government on December 28 last, such a shipment did not actually take place in a single case. Even after this protest the Imperial Embassy knows of only a single case in which an American shipper has ventured to make such a shipment for the purpose of legitimate sale to Germany. Both ship and cargo were immediately seized by the English and are being held in an English port under the pretext of an order of the German Federal Council (Bundesrat) regarding the grain trade, although this resolution of the Federal Council relates exclusively to grain and flour, and not to other foodstuffs, besides making an express exception with respect to imported foodstuffs, and although the German Government gave the American Government an assurance, and proposed a special organization whereby the exclusive consumption by the civilian population is absolutely guaranteed.

Under the circumstances, the seizure of the American ship was inadmis-

sible according to recognized principles of international law. Nevertheless, the United States Government has not to date secured the release of the ship and cargo, and has not, after a duration of the war of eight months, succeeded in protecting its lawful trade with Germany.

Such a long delay, especially in matters of food supply, is equivalent to an entire denial.

The Imperial Embassy must therefore assume that the United States Government acquiesces in the violations of international law by Great Britain.

Then there is also the attitude of the United States in the question of the exportation of arms.[1] The Imperial Government feels sure that the United States Government will agree that in questions of neutrality it is necessary to take into consideration not only the formal aspect of the case, but also the spirit in which the neutrality is carried out.

The situation in the present war differs from that of any previous war. Therefore any reference to arms furnished by Germany in former wars is not justified, for then it was not a question *whether* war material should be supplied to the belligerents, but *who* should supply it in competition with other nations. In the present war all nations having a war material industry worth mentioning are either involved in the war themselves or are engaged in perfecting their own armaments, and have therefore laid an embargo against the exportation of war material. The United States is accordingly the only neutral country in a position to furnish war materials. The conception of neutrality is thereby given a new purport, independently of the formal question of hitherto existing law. In contradiction thereto, the United States is building up a powerful arms industry in the broadest sense, the existing plants not only being worked but enlarged by all available means, and new ones built. The international conventions for the protection of the rights of neutral nations doubtless sprang from the necessity of protecting the existing industries of neutral nations as far as possible from injury in their business. But it can in no event be in accordance with the spirit of true neutrality if, under the protection of such international stipulations, an entirely new industry is created in a neutral state, such as is the development of the arms industry in the United States, the business whereof, under the present conditions, can benefit only the belligerent powers.

This industry is actually delivering goods only to the enemies of Germany. The theoretical willingness to supply Germany also, if shipments

[1] This matter was discussed in the Secretary of State's letter to the Chairman of the Senate Committee on Foreign Affairs, January 20, 1915, pages 17–18 above.

thither were possible, does not alter the case. If it is the will of the American people that there shall be a true neutrality, the United States will find means of preventing this one-sided supply of arms or at least of utilizing it to protect legitimate trade with Germany, especially that in foodstuffs. This view of neutrality should all the more appeal to the United States Government because the latter enacted a similar policy toward Mexico. On February 4, 1914, President Wilson, according to a statement of a Representative in Congress in the Committee for Foreign Affairs of December 30, 1914, upon the lifting of the embargo on arms to Mexico, declared that "we should stand for genuine neutrality, considering the surrounding facts of the case. . . ." He then held that "in that case, because Carranza had no ports, while Huerta had them and was able to import these materials, that it was our duty as a nation to treat (Carranza and Huerta) upon an equality if we wished to observe the true spirit of neutrality as compared with a mere paper neutrality."

If this view were applied to the present case, it would lead to an embargo on the exportation of arms.

2. The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
WASHINGTON, April 21, 1915.

No. 1379.]

Excellency: I have given thoughtful consideration to Your Excellency's note of the 4th of April, 1915, enclosing a memorandum of the same date, in which Your Excellency discusses the action of this Government with regard to trade between the United States and Germany and the attitude of this Government with regard to the exportation of arms from the United States to the nations now at war with Germany.

I must admit that I am somewhat at a loss how to interpret Your Excellency's treatment of these matters. There are many circumstances connected with these important subjects to which I would have expected Your Excellency to advert, but of which you make no mention, and there are other circumstances to which you do refer which I would have supposed to be hardly appropriate for discussion between the Government of the United States and the Government of Germany.

I shall take the liberty, therefore, of regarding Your Excellency's references to the course pursued by the Government of the United States with

regard to interferences with trade from this country, such as the Government of Great Britain has attempted, as intended merely to illustrate more fully the situation to which you desire to call our attention and not as an invitation to discuss that course. Your Excellency's long experience in international affairs will have suggested to you that the relations of the two Governments with one another cannot wisely be made a subject of discussion with a third Government, which cannot be fully informed as to the facts and which cannot be fully cognizant of the reasons for the course pursued. I believe, however, that I am justified in assuming that what you desire to call forth is a frank statement of the position of this Government in regard to its obligations as a neutral Power. The general attitude and course of policy of this Government in the maintenance of its neutrality I am particularly anxious that Your Excellency should see in their true light. I had hoped that this Government's position in these respects had been made abundantly clear, but I am of course perfectly willing to state it again. This seems to me the more necessary and desirable because, I regret to say, the language which Your Excellency employs in your memorandum is susceptible of being construed as impugning the good faith of the United States in the performance of its duties as a neutral. I take it for granted that no such implication was intended, but it is so evident that Your Excellency is laboring under certain false impressions that I cannot be too explicit in setting forth the facts as they are, when fully reviewed and comprehended.

In the first place, this Government has at no time and in no manner yielded any one of its rights as a neutral to any of the present belligerents. It has acknowledged, as a matter of course, the right of visit and search and the right to apply the rules of contraband of war to articles of commerce. It has, indeed, insisted upon the use of visit and search as an absolutely necessary safeguard against mistaking neutral vessels for vessels owned by an enemy and against mistaking legal cargoes for illegal. It has admitted also the right of blockade if actually exercised and effectively maintained. These are merely the well-known limitations which war places upon neutral commerce on the high seas. But nothing beyond these has it conceded. I call Your Excellency's attention to this, notwithstanding it is already known to all the world as a consequence of the publication of our correspondence in regard to these matters with several of the belligerent nations, because I cannot assume that you have official cognizance of it.

In the second place, this Government attempted to secure from the German and British Governments mutual concessions with regard to the measures those Governments respectively adopted for the interruption of

trade on the high seas. This it did, not of right, but merely as exercising the privileges of a sincere friend of both parties and as indicating its impartial good will.[1] The attempt was unsuccessful; but I regret that Your Excellency did not deem it worthy of mention in modification of the impressions you expressed. We had hoped that this act on our part had shown our spirit in these times of distressing war as our diplomatic correspondence had shown our steadfast refusal to acknowledge the right of any belligerent to alter the accepted rules of war at sea in so far as they affect the rights and interests of neutrals.

In the third place, I note with sincere regret that, in discussing the sale and exportation of arms by citizens of the United States to the enemies of Germany, Your Excellency seems to be under the impression that it was within the choice of the Government of the United States, notwithstanding its professed neutrality and its diligent efforts to maintain it in other particulars, to inhibit this trade, and that its failure to do so manifested an unfair attitude toward Germany. This Government holds, as I believe Your Excellency is aware, and as it is constrained to hold in view of the present indisputable doctrines of accepted international law, that any change in its own laws of neutrality during the progress of a war which would affect unequally the relations of the United States with the nations at war would be an unjustifiable departure from the principle of strict neutrality by which it has consistently sought to direct its actions, and I respectfully submit that none of the circumstances urged in Your Excellency's memorandum alters the principle involved. The placing of an embargo on the trade in arms at the present time would constitute such a change and be a direct violation of the neutrality of the United States. It will, I feel assured, be clear to Your Excellency that, holding this view and considering itself in honor bound by it, it is out of the question for this Government to consider such a course.

I hope that Your Excellency will realize the spirit in which I am drafting this reply. The friendship between the people of the United States and the people of Germany is so warm and of such long standing, the ties which bind them to one another in amity are so many and so strong, that this Government feels under a special compulsion to speak with perfect frankness when any occasion arises which seems likely to create any misunderstanding, however slight or temporary, between those who represent the Governments of the two countries. It will be a matter of gratification to me if I have removed from Your Excellency's mind any misapprehension you may have been under regarding either the policy or the spirit and

[1] See pages 46–47, above.

purposes of the Government of the United States. Its neutrality is founded upon the firm basis of conscience and good will.

Accept, Excellency, the renewed assurances of my highest consideration.

W. J. BRYAN.

3. The Austro-Hungarian Minister for Foreign Affairs to the American Ambassador at Vienna.

(TRANSLATION.)

I. AND R. MINISTRY OF THE IMPERIAL AND ROYAL HOUSE AND FOR FOREIGN AFFAIRS,
VIENNA, June 29, 1915.

File No. 763.72 111/2480.

The far-reaching effects which result from the fact that for a long time a traffic in munitions of war to the greatest extent has been carried on between the United States of America on the one hand and Great Britain and its allies on the other, while Austria-Hungary as well as Germany have been absolutely excluded from the American market, have from the very beginning attracted the most serious attention of the Imperial and Royal Government.

If now the undersigned permits himself to address himself to this question, with which the Washington Cabinet has been concerned until now only with the Imperial German Government, he follows the injunction of imperative duty to protect the interests intrusted to him from further serious damage which results from this situation as well to Austria-Hungary as to the German Empire.

Although the Imperial and Royal Government is absolutely convinced that the attitude of the Federal Government in this connection emanates from no other intention than to maintain the strictest neutrality and to conform to the letter of the provisions of international treaties, nevertheless the question arises whether the conditions as they have developed during the course of the war, certainly independently of the will of the Federal Government, are not such as in effect thwart the intentions of the Washington Cabinet or even actually oppose them. In the affirmative case—and affirmation, in the opinion of the Imperial and Royal Government, cannot be doubted—then immediately follows the further question whether it would not seem possible, even imperative, that appropriate measures be adopted toward bringing into full effect the desire of the Federal Government to maintain an attitude of strict parity with respect to both

belligerent parties. The Imperial and Royal Government does not hesitate to answer also this question unqualifiedly in the affirmative.

It cannot certainly have escaped the attention of the American Government, which has so eminently co-operated in the work of The Hague, that the meaning and essence of neutrality are in no way exhaustively dealt with in the fragmentary provisions of the pertinent treaties. If one takes into consideration particularly the genesis of Article 7 [1] of the Fifth and Thirteenth Conventions, respectively, upon which the Federal Government clearly relies in the present case, and the wording of which, as is in no way to be denied, affords it a formal pretext for the toleration of traffic in munitions of war now being carried on by the United States, it is only necessary, in order to measure the true spirit and import of this provision, which moreover appears to have been departed from in the prevention of the delivery of vessels of war and in the prevention of certain deliveries to vessels of war of belligerent nations, to point out the fact that the detailed privileges conceded to neutral states in the sense of the preamble to the above-mentioned convention are limited by the requirements of neutrality which conform to the universally recognized principles of international law.

According to all authorities on international law who concern themselves more particularly with the question now under consideration, a neutral government may not permit traffic in contraband of war to be carried on without hindrance when this traffic assumes such a form or such dimensions that the neutrality of the nation becomes involved thereby.

If any one of the various criteria which have been laid down in science in this respect be used as a basis in determining the permissibility of commerce in contraband, one reaches the conclusion from each of these criteria that the exportation of war requisites from the United States, as is being carried on in the present war, is not to be brought into accord with the demands of neutrality.

[1] The article referred to is as follows:

"A neutral power is not called upon to prevent the export or transport, on behalf of one or other of the belligerents, of arms, munitions of war, or, in general, of anything which can be of use to an army or a fleet."

The origin of the article can be studied in *Deuxième Conférence de la Paix. Actes et Documents*, Vol. III. The fifth convention relates to the rights and duties of neutrals in case of war on land and the thirteenth in case of maritime war. The fifth was due to the initiative of Denmark, France, and Japan, reported at pages 179–190 and 256–267 of the volume cited. The thirteenth convention was based on propositions by Brazil, Spain, Great Britain, Japan and Russia, reported at pages 460–514 and 695–731 of the volume cited.

The question now before us is surely not whether American industries which are engaged in the manufacture of war material should be protected from loss in the export trade that was theirs in time of peace. Rather has that industry soared to unimagined heights. In order to turn out the huge quantities of arms, ammunition, and other war material of every description ordered in the past months by Great Britain and her allies from the United States, not only the full capacity of the existing plants but also their transformation and enlargement and the creation of new large plants, as well as a flocking of workmen of all trades into that branch of industry, in brief far-reaching changes of economic life encompassing the whole country, became necessary. From no quarter then can there come any question of the right of the American Government to prohibit through the issuance of an embargo that enormous exportation of war implements that is openly carried on and besides is commonly known to be availed of by only one of the parties to the war. If the Federal Government would exercise that power it possesses, it could not lay itself open to blame if, in order to keep within the requirements of the law of the land, it adopted the course of enacting a law. For while the principle obtains that a neutral state may not alter the rules in force within its province concerning its attitude toward belligerents while war is being waged, yet this principle, as clearly appears from the preamble to the Thirteenth Hague Convention, suffers an exception in the case "où l'expérience acquise en démontrerait la nécessité pour la sauvegarde de ses droits." [Where experience has shown the necessity thereof for the protection of its rights.]

Moreover, this case is already established for the American Government through the fact that Austria-Hungary, as well as Germany, is cut off from all commercial intercourse with the United States of America without the existence of a legal prerequisite therefor—a legally constituted blockade.

In reply to the possible objection that, notwithstanding the willingness of American industry to furnish merchandise to Austria-Hungary and Germany as well as to Great Britain and her allies, it is not possible for the United States of America to trade with Austria-Hungary and Germany as the result of the war situation, it may be pointed out that the Federal Government is undoubtedly in a position to improve the situation described. It would be amply sufficient to confront the opponents of Austria-Hungary and Germany with the possibility of the prohibition of the exportation of foodstuffs and raw materials in case legitimate commerce in these articles between the Union and the two Central Powers should not be allowed. If the Washington Cabinet should find itself prepared for an action in this

sense, it would not only be following the tradition always held in such high regard in the United States of contending for the freedom of legitimate maritime commerce, but would also earn the high merit of nullifying the wanton efforts of the enemies of Austria-Hungary and Germany to use hunger as an ally.

The Imperial and Royal Government may therefore, in the spirit of the excellent relations which have never ceased to exist between the Austro-Hungarian Monarchy and the United States of America, appeal to the Federal Government in sincere friendship, in view of the expositions here set forth, to subject its previously adopted standpoint in this so important question to a mature reconsideration. A revision of the attitude observed by the Government of the Union in the sense of the views advocated by the Imperial and Royal Government would, according to the convictions of the latter, be not only within the bounds of the rights and obligations of a neutral government, but also in close keeping with those principles dictated by true humanity and love of peace which the United States has ever written on its banner.

The undersigned has the honor to ask the good offices of His Excellency, the ambassador extraordinary and plenipotentiary of the United States of America, Mr. Frederic Courtland Penfield, to convey the foregoing by telegram to the attention of the Washington Cabinet; he avails himself, etc.,

BURIÁN.

4. The Secretary of State to the American Ambassador at Vienna.

DEPARTMENT OF STATE,
WASHINGTON, August 12, 1915.

No. 846.]

Please present a note to the Royal Foreign Office in reply to its note of June 29, in the following sense:

The Government of the United States has given careful consideration to the statement of the Imperial and Royal Government in regard to the exportation of arms and ammunition from the United States to the countries at war with Austria-Hungary and Germany. The Government of the United States notes with satisfaction the recognition by the Imperial and Royal Government of the undoubted fact that its attitude with regard to the exportation of arms and ammunition from the United States is prompted

by its intention to "maintain the strictest neutrality and conform to the letter of the provisions of international treaties," but is surprised to find the Imperial and Royal Government implying that the observance of the strict principles of the law under the conditions which have developed in the present war is insufficient, and asserting that this Government should go beyond the long-recognized rules governing such traffic by neutrals and adopt measures to "maintain an attitude of strict parity with respect to both belligerent parties."

To this assertion of an obligation to change or modify the rules of international usage on account of special conditions the Government of the United States cannot accede. The recognition of an obligation of this sort, unknown to the international practice of the past, would impose upon every neutral nation a duty to sit in judgment on the progress of a war and to restrict its commercial intercourse with a belligerent whose naval successes prevented the neutral from trade with the enemy.

The contention of the Imperial and Royal Government appears to be that the advantages gained to a belligerent by its superiority on the sea should be equalized by the neutral powers by the establishment of a system of nonintercourse with the victor. The Imperial and Royal Government confines its comments to arms and ammunition, but if the principle for which it contends is sound it should apply with equal force to all articles of contraband. A belligerent controlling the high seas might possess an ample supply of arms and ammunition, but be in want of food and clothing. On the novel principle that equalization is a neutral duty, neutral nations would be obligated to place an embargo on such articles because one of the belligerents could not obtain them through commercial intercourse.

But if this principle, so strongly urged by the Imperial and Royal Government, should be admitted to obtain by reason of the superiority of a belligerent at sea, ought it not to operate equally as to a belligerent superior on land? Applying this theory of equalization, a belligerent who lacks the necessary munitions to contend successfully on land ought to be permitted to purchase them from neutrals, while a belligerent with an abundance of war stores or with the power to produce them should be debarred from such traffic.

Manifestly the idea of strict neutrality now advanced by the Imperial and Royal Government would involve a neutral nation in a mass of perplexities which would obscure the whole field of international obligation, produce economic confusion and deprive all commerce and industry of legitimate fields of enterprise, already heavily burdened by the unavoidable restrictions of war.

In this connection, it is pertinent to direct the attention of the Imperial and Royal Government to the fact that Austria-Hungary and Germany, particularly the latter, have during the years preceding the present European war produced a great surplus of arms and ammunition which they sold throughout the world and especially to belligerents. Never during that period did either of them suggest or apply the principle now advocated by the Imperial and Royal Government.

During the Boer war between Great Britain and the South African republics the patrol of the coasts of neighboring neutral colonies by British naval vessels prevented arms and ammunitions reaching the Transvaal or the Orange Free State. The allied republics were in a situation almost identical in that respect with that in which Austria-Hungary and Germany find themselves at the present time. Yet, in spite of the commercial isolation of one belligerent, Germany sold to Great Britain, the other belligerent, hundreds of thousands of kilos of explosives, gunpowder, cartridges, shot and weapons; and it is known that Austria-Hungary also sold similar munitions to the same purchaser, though in smaller quantities.

While, as compared with the present war, the quantities sold were small (a table of the sales is appended), the principle of neutrality involved was the same. If at that time Austria-Hungary and her present ally had refused to sell arms and ammunition to Great Britain on the ground that to do so would violate the spirit of strict neutrality, the Imperial and Royal Government might with greater consistency and greater force urge its present contention.

It might be further pointed out that during the Crimean war large quantities of arms and military stores were furnished to Russia by Prussian manufacturers; that during the recent war between Turkey and Italy, as this Government is advised, arms and ammunition were furnished to the Ottoman Government by Germany; and that during the Balkan wars the belligerents were supplied with munitions by both Austria-Hungary and Germany. While these latter cases are not analogous, as is the case of the South African war, to the situation of Austria-Hungary and Germany in the present war, they nevertheless clearly indicate the long-established practice of the two empires in the matter of trade in war supplies.

In view of the foregoing statements, this Government is reluctant to believe that the Imperial and Royal Government will ascribe to the United States a lack of impartial neutrality in continuing its legitimate trade in all kinds of supplies used to render the armed forces of a belligerent efficient, even though the circumstances of the present war prevent Austria-Hungary from obtaining such supplies from the markets of the United States, which

have been and remain, so far as the action and policy of this Government are concerned, open to all belligerents alike.

But, in addition to the question of principle, there is a practical and substantial reason why the Government of the United States had from the foundation of the republic to the present time advocated and practiced unrestricted trade in arms and military supplies. It has never been the policy of this country to maintain in time of peace a large military establishment or stores of arms and ammunition sufficient to repel invasion by a well-equipped and powerful enemy. It has desired to remain at peace with all nations and to avoid any appearance of menacing such peace by the threat of its armies and navies. In consequence of this standing policy the United States would, in the event of attack by a foreign power, be at the outset of the war seriously, if not fatally, embarrassed by the lack of arms and ammunition and by the means to produce them in sufficient quantities to supply the requirements of national defense. The United States has always depended upon the right and power to purchase arms and ammunition from neutral nations in case of foreign attack. This right, which it claims for itself, it cannot deny to others.

A nation whose principle and policy it is to rely upon international obligations and international justice to preserve its political and territorial integrity might become the prey of an aggressive nation whose policy and practice it is to increase its military strength during times of peace with the design of conquest, unless the nation attacked can, after war had been declared, go into the markets of the world and purchase the means to defend itself against the aggressor.

The general adoption by the nations of the world of the theory that neutral powers ought to prohibit the sale of arms and ammunition to belligerents would compel every nation to have in readiness at all times sufficient munitions of war to meet any emergency which might arise and to erect and maintain establishments for the manufacture of arms and ammunition sufficient to supply the needs of its military and naval forces throughout the progress of a war. Manifestly the application of this theory would result in every nation becoming an armed camp, ready to resist aggression, and tempted to employ force in asserting its rights rather than appeal to reason and justice for the settlement of international disputes.

Perceiving, as it does, that the adoption of the principle that it is the duty of a neutral to prohibit the sale of arms and ammunition to a belligerent during the progress of a war would inevitably give the advantage to the belligerent which had encouraged the manufacture of munitions in time of peace and which had laid in vast stores of arms and ammunition in

anticipation of war, the Government of the United States is convinced that the adoption of the theory would force militarism on the world and work against that universal peace which is the desire and purpose of all nations which exalt justice and righteousness in their relations with one another.

The Government of the United States, in the foregoing discussion of the practical reason why it has advocated and practiced trade in munitions of war, wishes to be understood as speaking with no thought or expression implying any judgment with regard to the circumstances of the present war, but as merely putting very frankly the argument in this matter which has been conclusive in determining the policy of the United States.

While the practice of nations, so well illustrated by the practice of Austria-Hungary and Germany during the South African war, and the manifest evil which would result from a change of that practice render compliance with the suggestions of the Imperial and Royal Government out of the question, certain assertions appearing in the Austro-Hungarian statement as grounds for its contentions cannot be passed over without comment. These assertions are substantially as follows:

(1) That the exportation of arms and ammunition from the United States to belligerents contravenes the preamble of the Hague convention No. 13, of 1907.

(2) That it is inconsistent with the refusal of this Government to allow delivery of supplies to vessels of war on the high seas.

(3) That "according to all authorities on international law who concern themselves more properly with the question," exportation should be prevented "when this traffic assumes such a form or such dimensions that the neutrality of a nation becomes involved thereby."

As to the assertion that the exportation of arms and ammunition contravenes the preamble of the Hague convention No. 13, of 1907, this Government presumes that reference is made to the last paragraph of the preamble which is as follows:

> Seeing that, in this category of ideas, these rules should not in principle be altered, in the course of the war, by a neutral power, except in a case where experience has shown the necessity for such change for the protection of the rights of that power.

Manifestly the only ground to change the rules laid down by the convention, one of which, it should be noted, explicitly declares that a neutral is not bound to prohibit the exportation of contraband of war, is the necessity of a neutral power to do so in order to protect its own rights. The right and duty to determine when this necessity exists rests with the neutral,

not with a belligerent. It is discretionary, not mandatory. If a neutral power does not avail itself of the right, a belligerent is not privileged to complain, for in doing so it would be in the position of declaring to the neutral power what is necessary to protect that power's own rights. The Imperial and Royal Government cannot but perceive that a complaint of this nature would invite just rebuke.

With reference to the asserted inconsistency of the course adopted by this Government in relation to the exportation of arms and ammunition and that followed in not allowing supplies to be taken from its ports to ships of war on the high seas, it is only necessary to point out that the prohibition of supplies to ships of war rests upon the principle that a neutral power must not permit its territory to become a naval base for either belligerent. A warship may, under certain restrictions, obtain fuel and supplies in a neutral port once in three months. To permit merchant vessels acting as tenders to carry supplies more often than three months and in unlimited amount would defeat the purpose of the rule and might constitute the neutral territory a naval base. Furthermore, this Government is unaware that any Austro-Hungarian ship of war has sought to obtain supplies from a port in the United States either directly or indirectly. This subject has, however, already been discussed with the Imperial German Government, to which the position of this Government was fully set forth December 24, 1914.

In view of the positive assertion in the statement of the Imperial and Royal Government as to the unanimity of opinion of text writers as to the exportation of contraband being unneutral, this Government has caused a careful examination of the principal authorities on international law to be made. As a result of this examination it has come to the conclusion that the Imperial and Royal Government has been misled and has inadvertently made an erroneous assertion. Less than one-fifth of the authorities consulted advocate unreservedly the prohibition of the export of contraband. Several of those who constitute this minority admit that the practice of nations has been otherwise. It may not be inopportune to direct particular attention to the declaration of the German authority, Paul Einicke, who states that at the beginning of a war belligerents have never remonstrated against the enactment of prohibitions on trade in contraband, but adds "that such prohibitions may be considered as violations of neutrality, or at least as unfriendly acts, if they are enacted during a war with the purpose to close unexpectedly the sources of supply to a party which heretofore had relied on them."

The Government of the United States deems it unnecessary to extend

further at the present time a consideration of the statement of the Austro-Hungarian Government. The principles of international law, the practice of nations, the national safety of the United States and other nations without great military and naval establishments, the prevention of increased armies and navies, the adoption of peaceful methods for the adjustment of international differences, and, finally, neutrality itself are opposed to the prohibition by a neutral nation of the exportation of arms, ammunition or other munitions of war to belligerent powers, during the progress of the war.

LANSING.

APPENDIX.

GERMAN EXPORTS OF ARMS AND AMMUNITION TO GREAT BRITAIN.

	Quantity in 100 kilos (220.46 lbs.).			
	1899	*1900*	*1901*	*1902*
Explosives	4342	6014	5147	3645
Gunpowder	28	658	243	69
Gun barrels	12	366	21	133
Shot of malleable iron not polished, etc.	30	43	38	—
Shot, polished, etc., not lead coated	—	4	—	—
Shot, nickled or lead coated with copper rings, etc.	—	3018	176	—
Weapons for war purposes	—	—	18	2
Cartridges with copper shells and percussion caps	904	1595	866	982

AUSTRO-HUNGARIAN EXPORTS OF ARMS AND AMMUNITION TO GREAT BRITAIN.

	Quantity in 100 kilos (220.46 lbs.).			
	1899	*1900*	*1901*	*1902*
Arms, exclusive of small arms	190	374	12	—
Separate parts of arms	1	1	—	—
Small arms	2	3	80	5
Ammunition and explosives under tariff No. 346	1	7	16	51
Other ammunitions and explosives	—	—	4	—

5. Letter of the Austro-Hungarian Ambassador to the Imperial and Royal Minister for Foreign Affairs.

a. The Circumstances of Sending the Message.

James Francis Jewell Archibald, an American citizen traveling on an American passport properly issued to him, sailed from New York for Rotterdam, on August 21, 1915, on the steamship *Rotterdam* of the Holland-America Line. This vessel, belonging to a Dutch company, flies the neutral Netherlands flag. The *Rotterdam* put in at Falmouth, England, on August 29, and Mr. Archibald was there apprehended by British officers, who took from him or from his baggage an autograph letter of Constantin Theodor Dumba, Austro-Hungarian ambassador near the Washington Government. The letter was addressed: "Durch gute Gelegenheit Ser. Excellenz Freiherrn von Burián, &c., &c., &c., Wien" (Through good opportunity to his Excellency Baron von Burián, &c., &c., &c., Vienna). The communication was retained by the British officials, a photographic fac-simile of it was procured by the American ambassador at London for transmission to Washington, and Mr. Archibald's passport was canceled. Mr. Archibald, who had started for Germany and Austria-Hungary as a newspaper correspondent, received word of the cancellation of his passport at Rotterdam when the steamship arrived there, and received from the American minister to the Netherlands an emergency passport enabling him to return to the United States on the *Rotterdam*.

Mr. Archibald's account of the circumstances was cabled by him on September 10 from Falmouth, England, to the editor of the Chicago *Herald*. In that dispatch he wrote:

"In response to your cablegram asking for a statement regarding my connection with the Dumba letter, I have this to say:

"The letter from Ambassador Dumba to the Austrian minister of foreign affairs was given to me at the foot of the gangplank at the moment of sailing by Dr. Dumba's secretary, who asked me to deliver it. I thought it merely was a suggestion to Minister Burián as to granting me privileges at the front. There was absolutely no secrecy or suggestion of the letter's importance. I had absolutely no idea whatever of its contents. Nor did I know what the real trouble was until I read it here in the papers. I don't think Dumba thought of the serious position it would put me in. He had already given me several letters of introduction. He probably thought merely it was a chance to deliver a note quickly and directly.

"I simply put the letter with all the rest of my papers and with some personal letters accompanying trifling gifts from persons in New York to friends abroad. The fact that I did not hide the letter, which would have been perfectly easy, should prove I was unaware of its national importance. I can truthfully say I was absolutely in no way a messenger in any sense—except as nearly every traveler when sailing accepts a note or trifle to be delivered or mailed.

"When I left Berlin last spring, I carried letters and packages for Ambassador and Mrs. Gerard and several attachés in exactly the same friendly spirit. I had asked others not to send anything important. But this Dumba letter, coming at the last moment, I did not give it any special thought, as it was handed to me in such a very casual manner."

b. ORIGINAL LETTER WITH ENGLISH TRANSLATION.[1]

NEW YORK, 20. August, 1915.

Hochwohlgeborner Freiherr:

Gestern Abend erhielt Genl. Consul von Nuber das anliegende Promemoria von dem Hauptredacteur der hiesigen einflussreichen Zeitung *Szabadsag* nach einer vorhergehenden Besprechung mit mir und in Ausführung seiner mündlichen Vorschläge behufs Vorbereitung von Ausständen in Bethlehem Schwabs Stahl und Munitionsfabriken sowie im Middle West.

Heute 12 Uhr fahrt der Eurer Excellenz wohlbekannte Mr. Archibald auf der Rotterdam nach Berlin und Wien. Ich möchte diese seltene sichere Gelegenheit benutzen um die Vorschläge Eurer Excellenz wohlwollenden Berücksichtung wärmstens zu empfehlen. Ich habe den Eindruck dass wir die Production von Kriegsbedarf in Bethlehem und in Middle West, nur auch nicht ganz verhindern, so doch stark desorganisiren und auf Monate aufhalten können, was nach Aussage des deutschen Militärattachés von grosser Wichtigkeit ist und das relativ kleine Geldopfer reichlich aufwiegt.

Aber selbst wenn dies Ausstände nicht gelingen, so ist dort Warscheinlichkeit vorhanden dass wir unsren armen gedrückten Landsleute unter dem Drucke der Conjunctur günstige Arbeitsbedingungen erzwingen. In Bethlehem arbeiten jetzt diese weissen Sklaven 12 Stunden täglich in 7 Tage in der Woche!! Ach schwache Leute gehen zu Grunde, werden amstekrank (? brustkrank). So weit deutsche Arbeiter unter den geschickten Elementen verhanden sind, wird für ihren Austritt sofort gesorgt werden. Es ist ausserdem ein deutsches *privates* Stellenvermittlungs-

[1] Reprinted from New York *Times*, September 10, 1915.

bureau geschaffen worden, welches solchen freiwillig und schon gut functionirt. Wir werden auch beitreten und die weitestgehende Unterstützung ist uns zugedacht.

Ich bitte Eure Excellenz um gütige Verständigung durch drahtlose Antwort mit Bezug auf diesen Brief ob nochdenselben einwilligen.

In grösster Eile und ehrungvoller Ergebenheit. C. DUMBA.

[TRANSLATION.]

NEW YORK, August 20, 1915.

Yesterday evening Consul General von Nuber received the inclosed *pro memoria* from the chief editor of the newspaper *Szabadsag*, which is very influential here, after a previous conversation with me and in pursuance of his oral proposals with respect to the preparation of strikes in Schwab's steel and munitions factories in Bethlehem, as well as in the Middle West.

To-day at 12 o'clock Mr. Archibald, who is well known to Your Excellency, leaves on the *Rotterdam* for Berlin and Vienna. I would like to use this rare, safe opportunity to recommend the proposals most warmly to Your Excellency's favorable consideration.

I am under the impression that we could, if not entirely prevent the production of war material in Bethlehem and in the Middle West, at any rate strongly disorganize it and hold it up for months, which, according to the statement of the German Military Attaché, is of great importance, and which amply outweighs the relatively small sacrifice of money.

But even if the strikes do not succeed, there is a probability at hand that we shall compel, under pressure of the crisis, favorable working conditions for our poor oppressed fellow-countrymen. In Bethlehem these white slaves at present work 12 hours a day, seven days in the week! Moreover, weak persons succumb, become consumptive. As far as German workingmen are found among the skilled elements, provision will be made forthwith for their exit. There has, besides this, been created a German *private* registry office for providing employment, and which already works voluntarily and well for such persons. We too shall join, and the widest support is contemplated for us.

I beg Your Excellency kindly to inform me through wireless reply with respect to this letter, whether you approve of same.

In greatest haste and respectful devotion,

C. DUMBA.

c. SECRETARY LANSING TO AMBASSADOR PENFIELD AT VIENNA.

DEPARTMENT OF STATE,
WASHINGTON, September 8, 1915.

You are instructed to present immediately the following in a note to the Foreign Office:

"Mr. Constantin Dumba, the Austro-Hungarian Ambassador at Washington, has admitted that he proposed to his Government plans to instigate strikes in American manufacturing plants engaged in the production of munitions of war. The information reached this Government through a copy of a letter of the Ambassador to his Government. The bearer was an American citizen named Archibald, who was traveling under an American passport. The Ambassador has admitted that he employed Archibald to bear official dispatches from him to his Government.

"By reason of the admitted purpose and intent of Mr. Dumba to conspire to cripple legitimate industries of the people of the United States and to interrupt their legitimate trade and by reason of the flagrant violation of diplomatic propriety in employing an American citizen protected by an American passport as a secret bearer of official dispatches through the lines of the enemy of Austria-Hungary, the President directs me to inform your Excellency that Mr. Dumba is no longer acceptable to the Government of the United States as the Ambassador of His Imperial Majesty at Washington.

"Believing that the Imperial and Royal Government will realize that the Government of the United States has no alternative but to request the recall of Mr. Dumba on account of his improper conduct, the Government of the United States expresses its deep regret that this course has become necessary and assures the Imperial and Royal Government that it sincerely desires to continue the cordial and friendly relations which exist between the United States and Austria-Hungary."

LANSING.

d. REQUEST OF AUSTRO-HUNGARIAN AMBASSADOR.

Ambassador Dumba sent to his Government the following message:

"I beg Your Excellency to recall me on leave of absence for personal report."

VII. Sinking of the "William P. Frye."

1. The Secretary of State to the American Ambassador at Berlin.

(TELEGRAM.)

DEPARTMENT OF STATE,
WASHINGTON, March 31, 1915.

No. 1446.]

You are instructed to present the following note to the German Foreign Office:

Under instructions from my Government I have the honor to present a claim for $228,059.54, with interest from January 28, 1915, against the German Government on behalf of the owners and captain of the American sailing vessel *William P. Frye* for damages suffered by them on account of the destruction of that vessel on the high seas by the German armed cruiser *Prinz Eitel Friedrich*, on January 28, 1915.

The facts upon which this claim arises and by reason of which the German Government is held responsible by the Government of the United States for the attendant loss and damages are briefly as follows:

The *William P. Frye*, a steel sailing vessel of 3,374 tons gross tonnage, owned by American citizens and sailing under the United States flag and register, cleared from Seattle, Wash., November 4, 1914, under charter to M. H. Houser, of Portland, Oreg., bound for Queenstown, Falmouth, or Plymouth for orders, with a cargo consisting solely of 186,950 bushels of wheat owned by the aforesaid Houser and consigned "unto order or to its assigns," all of which appears from the ship's papers which were taken from the vessel at the time of her destruction by the commander of the German cruiser.

On January 27, 1915, the *Prinz Eitel Friedrich* encountered the *Frye* on the high seas, compelled her to stop, and sent on board an armed boarding party, who took possession. After an examination of the ship's papers the commander of the cruiser directed that the cargo be thrown overboard, but subsequently decided to destroy the vessel, and on the following morning, by his order, the *Frye* was sunk.

The claim of the owners and captain consists of the following items:

Value of ship, equipment, and outfit	$150,000.00
Actual freight as per freight list, 5034 1000/12240 tons at 32–6—£8180–19–6 at $4.86	39,759.54
Traveling and other expenses of Capt. Kiehne and Arthur Sewall & Co., agents of ship, in connection with making affidavits, preparing and filing claim	500.00
Personal effects of Capt. H. H. Kiehne	300.00
Damages covering loss due to deprivation of use of ship	37,500.00
Total	$228,059.54

By direction of my Government, I have the honor to request that full reparation be made by the German Government for the destruction of the *William P. Frye* by the German cruiser *Prinz Eitel Friedrich.*

BRYAN.

2. The American Ambassador at Berlin to the Secretary of State.

(TELEGRAM.)

AMERICAN EMBASSY,
BERLIN, April 5, 1915.

No. 1984.]

The following is translation of the reply of the Foreign Office to my note of April 3:

GERMAN FOREIGN OFFICE,
BERLIN, April 5, 1915.

The undersigned has the honor to make reply to the note of his Excellency, Mr. James W. Gerard, Ambassador, the United States America, dated the third instant, Foreign Office No. 2892, relative to claims for damages for the sinking of the American merchant vessel *William P. Frye* by the German auxiliary cruiser *Prinz Eitel Friedrich.*

According to the reports which have reached the German Government, the commander of the *Prinz Eitel Friedrich* stopped the *William P. Frye* on the high seas January 27, 1915, and searched her. He found on board a cargo of wheat consigned to Queenstown, Falmouth, or Plymouth to order. After he had first tried to remove the cargo from the *William P. Frye* he took the ship's papers and her crew on board and sank ship.

It results from these facts that the German commander acted quite in accordance with the principles of international law as laid down in the Declaration of London and the German prize ordinance. The ports of Queenstown, Falmouth, and Plymouth, whither the ship visited was bound, are strongly fortified English coast places which, moreover, serve as bases for the British naval forces. The cargo of wheat, being food or foodstuffs, was conditional contraband within the meaning of article 24, No. 1, of the Declaration of London, and article 23, No. 1, of the German prize ordinance, and was therefore to be considered as destined for the armed forces of the enemy, pursuant to articles 33 and 34 of the Declaration of London and articles 32 and 33 of the German prize ordinance, and to be treated as contraband pending proof of the contrary. This proof was certainly not capable of being adduced at the time of the visiting of the vessel, since the cargo papers read to order. This, however, furnished the conditions under which, pursuant to article 49 of the Declaration of London and article 113 of the German prize ordinance, the sinking of the ship was permissible, since it was not possible for the auxiliary cruiser to take the prize into a German port without involving danger to its own security or the success of its operations. The duties devolving upon the cruiser before destruction of the ship, pursuant to article 50 of the Declaration of London and article 116 of the German prize ordinance, were fulfilled by the cruiser in that it took on board all the persons found on the sailing vessel, as well as the ship's papers.

The legality of the measures taken by the German commander is furthermore subject to examination by the German prize court pursuant to article 51 of the Declaration of London and section 1, No. 2, of the German code of prize procedure. These prize proceedings will be instituted before the prize court at Hamburg as soon as the ship's papers are received and will comprise the settlement of questions whether the destruction of the cargo and the ship was necessary within the meaning of article 49 of the Declaration of London: whether the property sunk was liable to capture; and whether, or to what extent, indemnity is to be awarded the owners.

In the trial the owners of ship and cargo would be at liberty, pursuant to article 34, paragraph 3, of the Declaration of London, to adduce proof that the cargo of wheat had an innocent destination and did not, therefore, have the character of contraband. If such proof is not adduced, the German Government would not be liable for any compensation whatever, according to the general principles of international law.

However, the legal situation is somewhat different in the light of the special stipulations applicable to the relations between Germany and the

United States since article 13 of the Prussian-American treaty of friendship and commerce of July 11, 1799, taken in connection with Article 12 of Prussian-American treaty of commerce and navigation of May 1, 1828,[1] provides that contraband belonging to the subjects or citizens of either party cannot be confiscated by the other in any case but only detained or used in consideration of payment of the full value of the same.

On the ground of this treaty stipulation which is as a matter of course binding on the German prize court, the American owners of ship and cargo would receive compensation even if the court should declare the cargo of wheat to be contraband. Nevertheless, the approaching prize proceedings are not rendered superfluous, since the competent prize court must examine into the legality of the capture and destruction and also pronounce upon the standing of the claimants and the amount of indemnity.

The undersigned begs to suggest that the ambassador bring the above to the knowledge of his Government and avails himself, etc.

JAGOW.

3. The Secretary of State to the American Ambassador at Berlin.

DEPARTMENT OF STATE,
WASHINGTON, April 28, 1915.

No. 1583.]

You are instructed to present the following note to the German Foreign Office:

In reply to Your Excellency's note of the 5th instant, which the Government of the United States understands admits the liability of the Imperial German Government for the damages resulting from the sinking of the American sailing vessel *William P. Frye* by the German auxiliary cruiser *Prinz Eitel Friedrich* on January 28 last, I have the honor to say, by direction of my Government, that while the promptness with which the Imperial German Government has admitted its liability is highly appreciated, my Government feels that it would be inappropriate in the circumstances of this case, and would involve unnecessary delay, to adopt the suggestion in your note that the legality of the capture and destruction, the standing of the claimants, and the amount of indemnity should be submitted to a prize court.

[1] The provisions under discussion are quoted in a later note, pages 159 and 160.

Unquestionably the destruction of this vessel was a violation of the obligations imposed upon the Imperial German Government under existing treaty stipulations between the United States and Prussia, and the United States Government, by virtue of its treaty rights, has presented to the Imperial German Government a claim for indemnity on account of the resulting damages suffered by American citizens.

The liability of the Imperial German Government and the standing of the claimants as American citizens and the amount of indemnity are all questions which lend themselves to diplomatic negotiation between the two Governments, and happily the question of liability has already been settled in that way. The status of the claimants and the amount of indemnity are the only questions remaining to be settled, and it is appropriate that they should be dealt with in the same way.

The Government of the United States fully understands that, as stated in Your Excellency's note, the German Government is liable under the treaty provisions above mentioned for the damages arising from the destruction of the cargo as well as from the destruction of the vessel. But it will be observed that the claim under discussion does not include damages for the destruction of the cargo, and the question of the value of the cargo therefore is not involved in the present discussion.

The Government of the United States recognizes that the German Government will wish to be satisfied as to the American ownership of the vessel, and the amount of the damages sustained in consequence of her destruction.

These matters are readily ascertainable and if the German Government desires any further evidence in substantiation of the claim on these points in addition to that furnished by the ship's papers, which are already in the possession of the German Government, any additional evidence found necessary will be produced.

In that case, however, inasmuch as any evidence which the German Government may wish to have produced is more accessible and can more conveniently be examined in the United States than elsewhere, on account of the presence there of the owners and captain of the *William P. Frye* and their documentary records, and other possible witnesses, the Government of the United States ventures to suggest the advisability of transferring the negotiations for the settlement of these points to the Imperial German Embassy at Washington.

In view of the admission of liability by reason of specific treaty stipulations, it has become unnecessary to enter into a discussion of the meaning and effect of the Declaration of London, which is given some prominence

in Your Excellency's note of April 5, further than to say that, as the German Government has already been advised, the Government of the United States does not regard the Declaration of London as in force.

BRYAN.

4. The American Ambassador at Berlin to the Secretary of State.[1]

(TELEGRAM.)

AMERICAN EMBASSY,
BERLIN, May 22, 1915.

Foreign Office states that it did not intend to leave unanswered the note in the *William P. Frye* case or to reply by sending the ship to prize court. A formal report shortly will be sent. While under the German laws the action of the prize court in issuing the motion is imperative, it remains totally independent of diplomatic negotiation.

GERARD.

5. The German Minister for Foreign Affairs to the American Ambassador.

FOREIGN OFFICE,
BERLIN, June 7, 1915.

The undersigned has the honor to make the following reply to the note of His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, dated April 30, 1915, Foreign Office No. 3291, on the subject of the sinking of the American sailing vessel *William P. Frye* by the German auxiliary cruiser *Prinz Eitel Friedrich:*

The German Government cannot admit that, as the American Government assumes, the destruction of the sailing vessel mentioned constitutes a violation of the treaties concluded between Prussia and the United States at an earlier date and now applicable to the relations between the German Empire and the United States, or of the American rights derived therefrom. For these treaties did not have the intention of depriving one of the contracting parties engaged in war of the right of stopping the supply of contraband to his enemy when he recognizes the supply of such articles as detrimental to his military interests.

[1] Text reprinted from press reports.

On the contrary, article 13 of the Prussian-American treaty of July 11, 1799, expressly reserves to the party at war the right to stop the carrying of contraband and to detain the contraband; it follows then that if it cannot be accomplished in any other way the stopping of the supply may in the extreme case be effected by the destruction of the contraband and of the ship carrying it. As a matter of course, the obligation of the party at war to pay compensation to the persons interested of the neutral contracting party, remains in force, whatever be the manner of stopping the supply.

According to general principles of international law, any exercise of the right of control over the trade in contraband is subject to the decision of the prize courts, even though such right may be restricted by special treaties.

At the beginning of the present war Germany, pursuant to these principles, established by law prize jurisdiction for cases of the kind under consideration. The case of the *William P. Frye* is likewise subject to the German prize jurisdiction, for the Prussian-American treaties mentioned contain no stipulation as to how the amount of the compensation, provided by article 13 of the treaties cited, is to be fixed.

The German Government, therefore, complies with its treaty obligations to a full extent when the prize courts instituted by it in accordance with international law proceed in pursuance of the treaty stipulations and thus award the American interested persons equitable indemnity. There would, therefore, be no foundation for a claim of the American Government unless the prize court should not grant indemnity in accordance with the treaty; in such an event, however, the German Government would not hesitate to arrange for equitable indemnity notwithstanding.

For the rest, prize proceedings in the case of the *Frye* are indispensable, apart from the American claims, for the reason that other claims of neutral and enemy interested parties are to be considered in the matter.

As was stated in the note of April 4 last, the prize court would have to decide the questions whether the destruction of the ship and cargo was legal; whether and under what conditions the property sunk was liable to confiscation, and to whom and in what amount indemnity is to be paid, provided application therefor is received.

Since the decision of the prize court must first be awaited before any further position is taken by the German Government, the simplest way for the American interested parties to settle their claims would be to enter them in the competent quarter, in accordance with the provision of the German code of prize procedure.

The undersigned begs to suggest that the Ambassador bring the above to the knowledge of his Government and avails himself, etc.

VON JAGOW,
Minister for Foreign Affairs.

6. The Secretary of State ad interim to the American Ambassador at Berlin.

(TELEGRAM.)

DEPARTMENT OF STATE,
WASHINGTON, June 24, 1915.

No. 1868.]

You are instructed to present the following note to the German Minister of Foreign Affairs:

I have the honor to inform Your Excellency that I duly communicated to my Government your note of the 7th instant, on the subject of the claim presented, in my note of April 3rd, last, on behalf of the owners and captain of the American sailing vessel *William P. Frye* in consequence of her destruction by the German auxiliary cruiser *Prinz Eitel Friedrich.*

In reply, I am instructed by my Government to say that it has carefully considered the reasons given by the Imperial German Government for urging that this claim should be passed upon by the German prize court, instead of being settled by direct diplomatic discussion between the two Governments as proposed by the Government of the United States, and that it regrets to find that it cannot concur in the conclusions reached by the Imperial German Government.

As pointed out in my last note to you on this subject, dated April 30, the Government of the United States has considered that the only question under discussion was the method which should be adopted for ascertaining the amount of the indemnity to be paid under an admitted liability, and it notes with surprise that in addition to this question the Imperial German Government now desires to raise some questions as to the meaning and effect of the treaty stipulations under which it has admitted its liability.

If the Government of the United States correctly understands the position of the Imperial German Government as now presented, it is that the provisions of article 13 of the treaty of 1799, between the United States and Prussia, which is continued in force by the treaty of 1828, justified the commander of the *Prinz Eitel Friedrich* in sinking the *William P. Frye*, although making the Imperial German Government liable for the

damages suffered in consequence, and that, inasmuch as the treaty provides no specific method for ascertaining the amount of indemnity to be paid, that question must be submitted to the German prize court for determination.

The Government of the United States, on the other hand, does not find in the treaty stipulations mentioned any justification for the sinking of the *Frye*, and does not consider that the German prize court has any jurisdiction over the question of the amount of indemnity to be paid by the Imperial German Government on account of its admitted liability for the destruction of an American vessel on the high seas.

You state in your note of the 7th instant, that article 13 of the above-mentioned treaty of 1799 "expressly reserves to the party at war the right to stop the carrying of contraband and to detain the contraband; it follows then that, if it cannot be accomplished in any other way, the stopping of the supply may in the extreme case be effected by the destruction of the contraband and of the ship carrying it."

The Government of the United States cannot concur in this conclusion. On the contrary, it holds that these treaty provisions do not authorize the destruction of a neutral vessel, in any circumstances. By its express terms the treaty prohibits even the detention of a neutral vessel carrying contraband if the master of the vessel is willing to surrender the contraband. Article 13 provides:

> In the case supposed of a vessel stopped for articles of contraband, if the master of the vessel stopped will deliver out the goods supposed to be of contraband nature, he shall be admitted to do it, and the vessel shall not in that case be carried into any port, nor further detained, but shall be allowed to proceed on her voyage.

In this case, the admitted facts show that, pursuant to orders from the commander of the German cruiser, the master of the *Frye* undertook to throw overboard the cargo of that vessel, but that before the work of delivering out the cargo was finished, the vessel with the cargo was sunk by order of the German commander.

For these reasons, even if it be assumed, as Your Excellency has done, that the cargo was contraband, your contention that the destruction of the vessel was justified by the provisions of article 13 does not seem to be well founded. The Government of the United States has not thought it necessary, in the discussion of this case, to go into the question of the contraband or noncontraband character of the cargo. The Imperial German Government has admitted that this question makes no difference so far

as its liability for damages is concerned, and the result is the same so far as the justification for the sinking of the vessel is concerned. As shown above, if we assume that the cargo was contraband, the master of the *Frye* should have been allowed to deliver it out, and the vessel should have been allowed to proceed on her voyage.

On the other hand, if we assume that the cargo was noncontraband, the destruction either of the cargo or the vessel could not be justified in the circumstances of this case under any accepted rule of international law. Attention is also called to the provisions of article 12 of the treaty of 1785 between the United States and Prussia, which, like article 13 of the treaty of 1799 was continued in force by article 12 of the treaty of 1828. So far as the provisions of article 12 of the treaty of 1785 apply to the question under consideration, they are as follows:

> If one of the contracting parties should be engaged in war with any other Power, the free intercourse and commerce of the subjects or citizens of the party remaining neuter with the belligerent Powers shall not be interrupted. On the contrary, in that case, as in full peace the vessels of the neutral party may navigate freely to and from the ports and on the coasts of the belligerent parties, free vessels making free goods, insomuch that all things shall be adjudged free which shall be on board any vessel belonging to the neutral party, although such things belong to an enemy of the other.

It seems clear to the Government of the United States, therefore, that whether the cargo of the *Frye* is regarded as contraband or as noncontraband, the destruction of the vessel was, as stated, in my previous communication, on this subject, "a violation of the obligations imposed upon the Imperial German Government under existing treaty stipulations between the United States and Prussia."

For these reasons the Government of the United States must disagree with the contention which it understands is now made by the Imperial German Government, that an American vessel carrying contraband may be destroyed without liability or accountability beyond the payment of such compensation for damages as may be fixed by a German prize court. The issue thus presented arises on a disputed interpretation of treaty provisions, the settlement of which requires direct diplomatic discussion between the two Governments, and cannot properly be based upon the decision of the German prize court, which is in no way conclusive or binding upon the Government of the United States.

Moreover, even if no disputed question of treaty interpretation was involved, the admission by the Imperial German Government of its liability

for damages for sinking the vessel would seem to make it unnecessary, so far as this claim is concerned, to ask the prize court to decide "whether the destruction of the ship and cargo was legal and whether and under what conditions the property sunk was liable to confiscation," which you state, in your note dated June 7, are questions which should be decided by the prize court. In so far as these questions relate to the cargo, they are outside of the present discussion, because, as pointed out in my previous note to you on the subject, dated April 30, "the claim under discussion does not include damages for the destruction of the cargo."

The real question between the two Governments is what reparation must be made for a breach of treaty obligations, and that is not a question which falls within the jurisdiction of a prize court.

In my first note on the subject, the Government of the United States requested that "full reparation be made by the Imperial German Government for the destruction of the *William P. Frye*." Reparation necessarily includes an indemnity for the actual pecuniary loss sustained, and the Government of the United States takes this opportunity to assure the Imperial German Government that such an indemnity, if promptly paid, will be accepted as satisfactory reparation, but it does not rest with a prize court to determine what reparation should be made or what reparation would be satisfactory to the Government of the United States.

Your Excellency states, in your note of June 7, that in the event the prize court should not grant indemnity in accordance with the treaty requirements, the German Government would not hesitate to arrange for equitable indemnity, but it is also necessary that the Government of the United States should be satisfied with the amount of the indemnity and it would seem to be more appropriate and convenient that an arrangement for equitable indemnity should be agreed upon now, rather than later. The decision of the prize court, even on the question of the amount of indemnity to be paid, would not be binding or conclusive on the Government of the United States. The Government of the United States also dissents from the view expressed in your note that "there would be no foundation for a claim of the American Government unless the prize courts should not grant indemnity in accordance with the treaty." The claim presented by the American Government is for an indemnity for a violation of a treaty, in distinction from an indemnity in accordance with the treaty, and, therefore, is a matter for adjustment by direct diplomatic discussion between the two Governments, and is in no way dependent upon the action of a German prize court.

For the reasons above stated, the Government of the United States

cannot recognize the propriety of submitting the claim presented by it on behalf of the owners and captain of the *Frye* to the German prize court for settlement.

The Government of the United States is not concerned with any proceedings which the Imperial German Government may wish to take on "other claims of neutral and enemy interested parties," which have not been presented by the Government of the United States, but which you state in your note of June 7 make prize court proceedings in this case indispensable, and it does not perceive the necessity for postponing the settlement of the present claim pending the consideration of those other claims by the prize court.

The Government of the United States, therefore, suggests that the Imperial German Government reconsider the subject in the light of these considerations, and, because of the objections against resorting to the prize court, the Government of the United States renews its former suggestion that an effort be made to settle this claim by direct diplomatic negotiations.

LANSING.

7. The American Ambassador at Berlin to the Secretary of State.

(TELEGRAM.)

AMERICAN EMBASSY,
BERLIN, July 30, 1915.

No. 2656.]

Following note received:

FOREIGN OFFICE,
BERLIN, July 30, 1915.

The undersigned has the honor to inform his Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the note of the 26th ultimo, Foreign Office No. 3990, on the subject of the sinking of the American merchant vessel *William P. Frye* by the German auxiliary cruiser *Prinz Eitel Friedrich*, that the points of view brought out in the note have been carefully examined by the Imperial German Government. This examination has led to the following conclusions:

The Government of the United States believes that it is incumbent upon it to take the position that the treaty rights to which America is entitled, as contained in Article 12 of the Prussian-American treaty of amity and commerce of September 10, 1785, and in Article 13 of the Prussian-

American treaty of amity and commerce of July 11, 1799, were violated by the sinking of the *William P. Frye*. It interprets these articles as meaning that a merchantman of the neutral contracting party carrying contraband cannot in any circumstances be destroyed by a warship of the belligerent contracting party, and that the sinking of the *William P. Frye* was, therefore, in violation of the treaty, even if her cargo should have consisted of contraband, which it leaves outside of the discussion.

The German Government cannot accept this view. It insists as heretofore that the commander of the German auxiliary cruiser acted in the legal exercise of the right of control of trade in contraband enjoyed by warships of belligerent nations, and that the treaty stipulations mentioned merely oblige the German Government to make compensation for the damage sustained by the American citizens concerned.

It is not disputed by the American Government that according to general principles of international law a belligerent is authorized in sinking neutral vessels under almost any conditions for carrying contraband. As is well known, these principles were laid down in Articles 49 and 50 of the Declaration of London, and were recognized at that time by the duly empowered delegates of all the nations which participated in the conference, including the American delegates, to be declarative of existing international law (see preliminary clause of the Declaration of London); moreover, at the beginning of the present war, the American Government proposed to the belligerent nations to ratify the Declaration of London and give its provisions formal validity also.

The German Government has already explained in its note of April 4 last for what reasons it considers that the conditions justifying the sinking under international law were present in the case of the *William P. Frye*. The cargo consisted of conditional contraband, the destination of which for the hostile armed forces was to be presumed under the circumstances; no proof to overcome this presumption has been furnished. More than half the cargo of the vessel was contraband, so that the vessel was liable to confiscation. The attempt to bring the American vessel into a German port would have greatly imperiled the German vessel in the given situation of the war, and at any rate practically defeated the success of her further operations. Thus the authority for sinking the vessel was given according to general principles of international law.

There only remains then to be examined the question how far the Prussian-American treaty stipulations modify these principles of international law.

In this connection Article 12 of the treaty of 1785 provides that in the

event of a war between one of the contracting parties with another power the free commerce and intercourse of the nationals of the party remaining neutral with the belligerent powers shall not be interrupted, but that on the contrary the vessel of the neutral party may navigate freely to and from the ports of the belligerent powers, even neutralizing enemy goods on board thereof. However, this article merely formulates general rules for the freedom of maritime intercourse and leaves the question of contraband untouched; the specific stipulations on this point are contained in the following article, which is materially identical with Article 13 of the treaty of 1799 now in force.

The plain intention of Article 13 is to establish a reasonable compromise between the military interests of the belligerent contracting party and the commercial interests of the neutral party. On the one hand the belligerent party is to have the right to prevent the transportation of war supplies to his adversaries even when carried on vessels of the neutral party; on the other hand the commerce and navigation of the neutral party is to be interfered with as little as possible by the measures necessary for such prevention, and reasonable compensation is to be paid for any inconvenience or damage which may nevertheless ensue from the proceeding of the belligerent party.

Article 13 recites the following means whereby the belligerent party can prevent the vessels of the neutral party from carrying war supplies to his adversary. The detention of the ship and cargo for such length of time as the belligerent may think necessary; furthermore the taking over of the war stores for his own use, paying the full value of the same as ascertained at the place of destination. The right of sinking is not mentioned in the treaty and is therefore neither expressly permitted nor expressly prohibited, so that on this point the party stipulations must be supplemented by the general rules of international law. From the meaning and spirit of the treaty it really appears out of the question that it was intended to expect of the belligerent that he should permit a vessel loaded with contraband, for example a shipment of arms and ammunition of decisive importance for the outcome of the war, to proceed unhindered to his enemy when circumstances forbid the carrying of the vessel into port, if the general rules of international law allow sinking of the vessel.

The remaining stipulations of Article 13 must likewise be considered in this light; they provide that the captain of a vessel stopped shall be allowed to proceed on his voyage if he delivers out the contraband to the

warship which stopped his vessel. For such delivering out cannot of course be considered when the ensuing loss of time imperils either the warship herself or the success of her other operations. In the case of the *William P. Frye* the German commander at first tried to have matters settled by the delivery of contraband, but convinced himself of the impracticability of this attempt in that it would expose his ship to attack by whatever superior force of enemy war vessels pursuing him, and was accordingly obliged to determine upon the sinking of the *Frye*. Thus he did not exceed on this point the limits to which he was bound by Article 13.

However, Article 13 asserts itself here to the extent that it founds the obligation to compensate the American citizens affected, whereas according to the general rules of international law the belligerent party does not need to grant compensation for a vessel lawfully sunk. For, if by Article 13, the mere exercise of right of highways makes the belligerent liable for compensation, this must apply *a fortiori* to the exercise of the right of sinking.

The question whether the German commander acted legally was primarily a subject for the consideration of the German prize courts according to general principles of international law as laid down, also in Article 1 of The Hague Convention for the establishment of an international prize court and in Article 51 of the Declaration of London. The German Government consequently laid the case of the *William P. Frye* before the competent prize court at Hamburg, as was stated in its note of the 7th ultimato. This court found by its judgment of the 10th instant that the cargo of the American vessel *William P. Frye* was contraband, that the vessel could not be carried into port, and that the sinking was therefore justified; at the same time the court expressly recognized the validity of the Prussian-American treaty stipulations severally mentioned for the relations between the German Empire and America, so that the sinking of the ship and cargo, so far as American property, makes the German Empire liable for indemnity. The prize court was unable to fix the indemnity itself, since it had no data before it, failing the receipt of the necessary details from the parties interested.

It will now be necessary to settle these points in a different way. The German Government suggests as the simplest way that each of the two Governments designate an expert, and that the two experts jointly fix the amount of indemnity for the vessel and any American property which may have been sunk with her. The German Government will promptly

pay the amount of indemnity thus ascertained; it expressly declares, however, reverting to what has been stated above, that this payment does not constitute satisfaction for the violation of American treaty rights, but a duty or policy of this Government founded on the existing treaty stipulations.

Should the American Government not agree to this manner of settling the matter, the German Government is prepared to submit the difference of opinion as being a question of the interpretation of the existing treaties between Germany and the United States to the tribunal at The Hague, pursuant to Article 38 of The Hague Convention for the pacific settlement of international disputes.

The undersigned begs to suggest that the Ambassador bring the above to the attention of his Government and avails himself, &c.

VON JAGOW.

GERARD.

8. The Secretary of State to the American Ambassador at Berlin.

(TELEGRAM.)

DEPARTMENT OF STATE,
WASHINGTON, August 10, 1915.

No. 2057.]

You are instructed to present the following note to the German Minister for Foreign Affairs:

Under instructions from my Government, I have the honor to inform Your Excellency, in reply to your note of July 30 in regard to the claim for reparation for the sinking of the *William P. Frye*, that the Government of the United States learns with regret that the objections urged by it against the submission of this case to the prize court for decision have not commended themselves to the Imperial German Government, and it equally regrets that the reasons presented by the Imperial German Government for submitting this case to the prize court have failed to remove the objections of the Government of the United States to the adoption of that course. As this disagreement has been reached after the full presentation of the views of both Governments in our previous correspondence, a further exchange of views on the question in dispute would doubtless be unprofitable, and the Government of the United States therefore welcomes Your

Excellency's suggestion that some other way should be found for settling this case.

The two methods of settlement proposed as alternative suggestions in Your Excellency's note have been given careful consideration, and it is believed that if they can be combined so that they may both be adopted, they will furnish a satisfactory basis for the solution of the questions at issue.

The Government of the United States has already expressed its desire that the question of the amount of indemnity to be paid by the Imperial German Government under its admitted liability for the losses of the owners and captain on account of the destruction of the *Frye* should be settled by diplomatic negotiation, and it entirely concurs with the suggestion of the Imperial German Government that the simplest way would be to agree, as proposed in your note, "that each of the two Governments designate an expert and that the two experts jointly fix the amount of indemnity for the vessel and any American property which may have been sunk with her," to be paid by the Imperial German Government when ascertained as stated in your note. It is assumed that the arrangement will include some provision for calling in an umpire in case the experts fail to agree.

The Government of the United States notes that your suggestion is made with the express reservation that a payment under this arrangement would not constitute an admission that American treaty rights had been violated, but would be regarded by the Imperial German Government merely as fulfilling a duty or policy founded on existing treaty stipulations. A payment made on this understanding would be entirely acceptable to the Government of the United States, provided that the acceptance of such payment should likewise be understood to be without prejudice to the contention of the Government of the United States that the sinking of the *Frye* was without legal justification, and provided also that an arrangement can be agreed upon for the immediate submission to arbitration of the question of legal justification, in so far as it involves the interpretation of existing treaty stipulations.

There can be no difference of opinion between the two Governments as to the desirability of having this question of the true intent and meaning of their treaty stipulations determined without delay, and to that end the Government of the United States proposes that the alternative suggestion of the Imperial German Government also be adopted, so that this question of treaty interpretation can be submitted forthwith to arbitration pursuant to Article 38 of the Hague convention for the pacific settlement of international disputes.

In this way both the question of indemnity and the question of treaty interpretation can promptly be settled, and it will be observed that the only change made in the plan proposed by the Imperial German Government is that instead of eliminating either one of its alternative suggestions, they are both given effect in order that both of the questions under discussion may be dealt with at the same time.

If this proposal proves acceptable to the Imperial German Government, it will be necessary also to determine whether, pending the arbitral award, the Imperial German Government shall govern its naval operations in accordance with its own interpretation, or in accordance with the interpretation maintained by the United States, as to the obligations imposed by their treaty stipulations, and the Government of the United States would be glad to have an expression of the views of the Imperial German Government on this point.

LANSING.

9. German Secretary for Foreign Affairs to the American Ambassador.

(TELEGRAM.)

AMERICAN EMBASSY,
BERLIN, September 20, 1915.

Following note received from the Foreign Office to-day:

"FOREIGN OFFICE,
"BERLIN, September 19, 1915.

"The undersigned has the honor to make the following reply to the note of His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, dated 13th ultimo, on the subject of the claim for reparation for the sinking of the American merchantman *William P. Frye*.

"With regard first to the ascertainment of the damages by experts, the German Government believes that it should dispense with the nomination of an umpire. In the cases of the ascertainment of damages hitherto arranged between the German Government and a neutral Government from similar causes the experts named by the two parties have always reached an agreement as to the amount of the damage without difficulty; should it not be possible, however, to reach an agreement on some point, it could probably be settled by diplomatic negotiation. Assuming that the American Government agrees to this, the German Government names as its

expert, Dr. Kepney of Bremen, director of the North German Lloyds; it begs to await the designation of the American expert.

"The German Government declares that it agrees with the proposal of the American Government to separate the question of indemnity from the question of the interpretation of the Prussian-American treaties of 1785, 1799 and 1828. It, therefore, again expressly states that in making payment it does not acknowledge the violation of the treaty as contended by the American side, but it will admit that the settlement of the question of indemnity does not prejudice the arrangement of the difference of opinion concerning the interpretation of the treaty rights, and that this dispute is left to be decided by The Hague tribunal of arbitration.

"The negotiations relative to the signing of the *compromis* provided by Article 52 of The Hague arbitration convention would best be conducted between the Foreign Office and the American Embassy in Berlin in view of the difficulties in the way of instructing the Imperial Ambassador at Washington. In case the American Government agrees, the Foreign Office is prepared to submit to the Embassy a draft of such a *compromis*.

"The American Government's inquiry whether the German Government will govern its naval operations in accordance with the German or the American interpretation of the treaty stipulations in question pending the arbitral proceedings has been carefully considered by the German Government. From the standpoint of law and equity it is not prevented in its opinion from proceeding against American ships carrying contraband, according to its interpretation, until the question is settled by arbitration. For the German Government does not need to depart from the application of generally recognized rules of the law of maritime war, as the Declaration of London, unless and in so far as an exception based on a treaty is established beyond all doubt; in the case of the present difference of opinion between the German and the American Governments, such an exception could not be taken to be established except on the ground of the arbitral award. Moreover, the disadvantages to Germany which would ensue from the American interpretation of the treaty stipulations would be so much greater as to be out of proportion to those which the German interpretation would entail for the United States. For whereas the American interpretation would materially impede Germany in her conduct of warfare, hardly any particular disadvantage to American citizens would result from the German interpretation since they receive full reparation for any property damage sustained.

"Nevertheless the German Government, in order to furnish to the American Government evidence of its conciliatory attitude, has issued orders to

the German naval forces not to destroy American merchantmen which have loaded conditional contraband, even when the conditions of international law are present, but to permit them to continue their voyage unhindered if it is not possible to take them into port. On the other hand, it must reserve to itself the right to destroy vessels carrying absolute contraband wherever such destruction is permissible according to the provisions of the Declaration of London.

"The undersigned begs to suggest that the Ambassador bring the above to the knowledge of his Government and avails himself of the opportunity to renew, etc.

"VON JAGOW."

GERARD.

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World Peace Foundation

Pamphlet Series

A LEAGUE TO ENFORCE PEACE

BY

A. LAWRENCE LOWELL

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ORIGIN OF THE LEAGUE TO ENFORCE PEACE

The proposals of the League to Enforce Peace represent an attempt by a large body of men of affairs to provide an adequate remedy for the international anarchy which brought about the war in Europe, and which if unchanged is certain to result in future wars. After six months of private and public discussion, about thirty men—professors of political science and of international law, statesmen and students of public questions—came together for an interchange of views. Their object was, first, to draw up a series of proposals for an effective League of Nations designed to establish and to maintain peace, and secondly, to determine what portion of this desirable program ought now to be urged upon our own and other Governments as a realizable project.

These conferences continued at intervals during three months and resulted in the formulation of the articles which were presented to the Philadelphia conference of June 17th, and which, with amendments, that conference put forward as the platform of the League. The articles as originally framed were presented to and signed by the one hundred and twenty men who joined in the call for the Philadelphia conference. These included representative business men, editors, educators, churchmen, jurists, scientists and professional men; leaders of organized labor and of the National Grange; statesmen, diplomatists, mayors of cities and governors of states; professors of international law, of political science and representatives of leading peace organizations. The three hundred men who responded to the call and attended the conference were equally representative of the country, both geographically and by reason of their personal standing. The result of their deliberations is offered to the world as an earnest attempt to find a solution for the most urgent and grave question of our day.

PROGRAM OF THE LEAGUE

THE WARRANT FROM HISTORY

Throughout five thousand years of recorded history peace, here and there established, has been kept, and its area has been widened, in one way only. Individuals have combined their efforts to suppress violence in the local community. Communities have co-operated to maintain the authoritative state and to preserve peace within its borders. States have formed leagues or confederations or have otherwise co-operated to establish peace among themselves. Always peace has been made and kept, when made and kept at all, by the superior power of superior numbers acting in unity for the common good.

Mindful of this teaching of experience, we believe and solemnly urge that the time has come to devise and to create a working union of sovereign nations to establish peace among themselves and to guarantee it by all known and available sanctions at their command, to the end that civilization may be conserved, and the progress of mankind in comfort, enlightenment and happiness may continue.

THE DEFINITE PROPOSALS

We believe it to be desirable for the United States to join a league of nations binding the signatories to the following:

First: All justiciable questions arising between the signatory powers, not settled by negotiation, shall, subject to the limitations of treaties, be submitted to a judicial tribunal for hearing and judgment, both upon the merits and upon any issue as to its jurisdiction of the question.

Second: All other questions arising between the signatories and not settled by negotiation, shall be submitted to a council of conciliation for hearing, consideration and recommendation.

Third: The signatory powers shall jointly use forthwith both their economic and military forces against any one of their number that

goes to war, or commits acts of hostility, against another of the signatories before any question arising shall be submitted as provided in the foregoing.

Fourth: Conferences between the signatory powers shall be held from time to time to formulate and codify rules of international law, which, unless some signatory shall signify its dissent within a stated period, shall thereafter govern in the decisions of the Judicial Tribunal mentioned in Article One.

The conference, representative of all sections and interests in the United States, adopted the foregoing preamble and platform with only two dissenting votes.

A LEAGUE TO ENFORCE PEACE[1]

By A. Lawrence Lowell

In spite of its ominous sound, the suggestion of a league of nations to enforce peace has no connection with any effort to stop the present war. It is aimed solely at preventing future conflicts after the terrific struggle now raging has come to an end; and yet this is not a bad time for people in private life to bring forward proposals of such a nature. Owing to the vast number of soldiers under arms, to the proportion of men and women in the warring countries who suffer acutely, to the extent of the devastation and misery, it is probable that, whatever the result may be, the people of all nations will be more anxious to prevent the outbreak of another war than ever before in the history of the world. The time is not yet ripe for governments to take action, but it is ripe for public discussion of practicable means to reduce the danger of future breaches of international peace.

The nations of the world to-day are in much the position of frontier settlements in America half a century ago, before orderly government was set up. The men there were in the main well disposed, but in the absence of an authority that could enforce order each man, feeling no other security from attack, carried arms which he was prepared to use if danger threatened. The first step, when affrays became unbearable, was the formation of a vigilance committee, supported by the enrollment of all good citizens, to prevent men from shooting one another and to punish offenders. People did not wait for a gradual improvement by the preaching of higher ethics and a better civilization. They felt that violence must be met by force, and, when the show of force was strong enough, violence ceased. In time the vigilance committee was replaced by the policeman and by the sheriff with the *posse comitatus*. The policeman and the sheriff maintain order because they have the bulk of the community behind

[1] Reprinted from the *Atlantic Monthly*, September, 1915, by kind permission of the Atlantic Monthly Publishing Company.

them, and no country has yet reached, or is likely for an indefinite period to reach, such a state of civilization that it can wholly dispense with the police.

Treaties for the arbitration of international disputes are good. They have proved an effective method of settling questions that would otherwise have bred ill-feeling without directly causing war; but when passion runs high, and deep-rooted interests or sentiments are at stake, there is need of the sheriff with his *posse* to enforce the obligation. There are, no doubt, differences in the conception of justice and right, divergencies of civilization, so profound that people will fight over them, and face even the prospect of disaster in war rather than submit. Yet even in such cases it is worth while to postpone the conflict, to have a public discussion of the question at issue before an impartial tribunal, and thus give to the people of the countries involved a chance to consider, before hostilities begin, whether the risk and suffering of war is really worth while. No sensible man expects to abolish wars altogether, but we ought to seek to reduce the probability of war as much as possible. It is on these grounds that the suggestion has been put forth of a league of nations to enforce peace.

Without attempting to cover details of operation, which are, indeed, of vital importance and will require careful study by experts in international law and diplomacy, the proposal contains four points stated as general objects. The first is that before resorting to arms the members of the league shall submit disputes with one another, if justiciable, to an international tribunal; second, that in like manner they shall submit non-justiciable questions (that is such as cannot be decided on the basis of strict international law) to an international council of conciliation, which shall recommend a fair and amicable solution; third, that if any member of the league wages war against another before submitting the question in dispute to the tribunal or council, all the other members shall jointly use forthwith both their economic and military forces against the state that so breaks the peace; and, fourth, that the signatory powers shall endeavor to codify and improve the rules of international law.

The kernel of the proposal, the feature in which it differs from other plans, lies in the third point, obliging all the members of the league

to declare war on any member violating the pact of peace. This is the provision that provokes both adherence and opposition; and at first it certainly gives one a shock that a people should be asked to pledge itself to go to war over a quarrel which is not of its making, in which it has no interest, and in which it may believe that substantial justice lies on the other side. If, indeed, the nations of the earth could maintain complete isolation, could pursue each its own destiny without regard to the rest, if they were not affected by a war between two others or liable to be drawn into it; if, in short, there were no overwhelming common interest in securing universal peace, the provision would be intolerable. It would be as bad as the liability of an individual to take part in the *posse comitatus* of a community with which he had nothing in common. But in every civilized country the public force is employed to prevent any man, however just his claim, from vindicating his own right with his own hand instead of going to law; and every citizen is bound, when needed, to assist in preventing him, because that is the only way to restrain private war, and the maintenance of order is of paramount importance for every one. Surely the family of nations has a like interest in restraining war between states.

It will be observed that the members of the league are not to bind themselves to enforce the decision of the tribunal or the award of the council of conciliation. That may come in the remote future, but it is no part of this proposal. It would be imposing obligations far greater than the nations can reasonably be expected to assume at the present day; for the conceptions of international morality and fair play are still so vague and divergent that a nation can hardly bind itself to wage war on another, with which it has no quarrel, to enforce a decision or a recommendation of whose justice or wisdom it may not be itself heartily convinced. The proposal goes no farther than obliging all the members to prevent by threat of armed intervention a breach of the public peace before the matter in dispute has been submitted to arbitration, and this is neither unreasonable nor impracticable. There are many questions, especially of a non-justiciable nature, on which we should not be willing to bind ourselves to accept the decision of an arbitration, and where we should regard compulsion by armed intervention of the rest of the world as outra-

geous. Take, for example, the question of Asiatic immigration, or a claim that the Panama Canal ought to be an unfortified neutral highway, or the desire by a European power to take possession of Colombia. But we ought not, in the interest of universal peace, to object to making a public statement of our position in an international court or council before resorting to arms; and in fact the treaty between the United States and Great Britain, ratified on November 14, 1914, provides that all disputes between the high contracting parties, of every nature whatsoever, shall, failing other methods of adjustment, be referred for investigation and report to a Permanent International Commission, with a stipulation that neither country shall declare war or begin hostilities during such investigation and before the report is submitted.

What is true of this country is true of others. To agree to abide by the result of an arbitration, on every non-justiciable question of every nature whatsoever, on pain of compulsion in any form by the whole world, would involve a greater cession of sovereignty than nations would now be willing to concede. This appears, indeed, perfectly clearly from the discussions at the Hague Conference of 1907. But to exclude differences that do not turn on questions of international law from the cases where a state must present the matter to a tribunal or council of conciliation before beginning hostilities, would leave very little check upon the outbreak of war. Almost every conflict between European nations for more than half a century has been based upon some dissension which could not be decided by strict rules of law, and in which a violation of international law or of treaty rights has usually not even been used as an excuse. This was true of the war of France and Sardinia against Austria in 1859, and in substance of the war between Prussia and Austria in 1866. It was true of the Franco-Prussian war in 1870, of the Russo-Turkish war in 1876, of the Balkan war against Turkey in 1912, and of the present war.

No one will claim that a league to enforce peace, such as is proposed, would wholly prevent war, but it would greatly reduce the probability of hostilities. It would take away the advantage of surprise, of catching the enemy unprepared for a sudden attack. It would give a chance for public opinion on the nature of the contro-

versy to be formed throughout the world and in the militant country. The latter is of great importance, for the moment war is declared argument about its merits is at once stifled. Passion runs too high for calm debate, and patriotism forces people to support their government. But a trial before an international tribunal would give time for discussion while emotion is not yet highly inflamed. Men opposed to war would be able to urge its injustice, to ask whether, after all, the object is worth the sacrifice, and they would get a hearing from their fellow citizens which they cannot get after war begins. The mere delay, the interval for consideration, would be an immense gain for the prospect of a peaceful settlement.

In this connection it may be of interest to recall the way in which the medieval custom of private war was abolished in England. It was not done at one step, but gradually, by preventing men from avenging their own wrongs before going to court. The trial by battle long remained a recognized part of judicial procedure, but only after the case had been presented to the court, and only in accordance with judicial forms. This had the effect of making the practice far less common, and of limiting it to the principals in the quarrel instead of involving a general breach of the peace in which their retainers and friends took part. Civilization was still too crude to give up private war, but the arm of the law and the force in the hands of the crown were strong enough to delay a personal conflict until the case had been presented to court. Without such a force the result could not have been attained.

Every one will admit this in the case of private citizens, but many people shrink from the use of international force to restrain war; some of them on the principle of strict nonresistance, that any taking of life in war cannot be justified, no matter what its purpose or effect. Such people have the most lofty moral ideals, but these are not the whole of true statesmanship, which must aim at the total welfare and strive to lessen the scourges of mankind even by forcible means. Many years ago when an Atlantic steamship was wrecked it was said that some of the crew made a rush for the boats, beating the passengers off, and that the captain, when he was urged to restore order by shooting a mutineer, replied that he was too near eternity to take life. The result was a far greater loss of life

than would have been suffered had he restored order by force. Probably no man with the instincts of a statesman would defend his conduct to-day. He was not a coward, but his sentiments unfitted him for a responsible post in an emergency.

Most people who have been thinking seriously about the maintenance of peace are tending to the opinion that a sanction of some kind is needed to enforce the observance of treaties and of agreements for arbitration. Among the measures proposed has been that of an international police force, under the control of a central council which could use it to preserve order throughout the world. At present such a plan seems visionary. The force would have to be at least large enough to cope with the army that any single nation could put into the field,—under existing conditions let us say five millions of men fully equipped and supplied with artillery and ammunition for a campaign of several months. These troops need not to be under arms, or quartered near The Hague, but they must be thoroughly trained and ready to be called out at short notice. Practically that would entail yearly votes of the legislative bodies of each of the nations supplying a quota, and if any one of them failed to make the necessary appropriation there would be great difficulty in preventing others from following its example. The whole organization would, therefore, be in constant danger of going to pieces.

But quite apart from the practical difficulties in the permanent execution of such a plan, let us see how it would affect the United States. The amount of the contingents of the various countries would be apportioned with some regard to population, wealth and economic resources; and if the total were five million men our quota on a moderate estimate might be five hundred thousand men. Is it conceivable that the United States would agree to keep anything like that number drilled, equipped and ready to take the field on the order of an international council composed mainly of foreign nations? Of course it will be answered that these figures are exaggerated because any such plan will be accompanied by a reduction in armaments. But that is an easier thing to talk about than to effect, and especially to maintain. One must not forget that the existing system of universal compulsory military service on the continent of Europe arose from Napoleon's attempt to limit the size of the Prussian

army. He would be a bold or sanguine man who should assert that any treaty to limit armaments could not in like manner be evaded; and, however much they were limited, the quantity of troops to be held at the disposal of a foreign council would of necessity be large, while no nation would be willing to pledge for the purpose the whole of its military force. Such a plan may be practicable in some remote future when the whole world is a vast federation under a central government, but that would seem to be a matter for coming generations, not for the men of our day.

Moreover, the nations whose troops were engaged in fighting any country would inevitably find themselves at war with that country.

One cannot imagine saying to some foreign state, "Our troops are killing yours, they are invading your land, we are supplying them with recruits and munitions of war, but otherwise we are at peace with you. You must treat us as a neutral, and accord to our citizens, to their commerce and property, all the rights of neutrality." In short the plan of an international police force involves all the consequences of the proposal of a league to enforce peace, with other complex provisions extremely hard to execute.

A suggestion more commonly made is that the members of the league of nations, instead of pledging themselves to use their military forces forthwith against any of their number that commits a breach of the peace, should agree to hold at once a conference, and take such measures—diplomatic, economic, or military—as may be necessary to prevent war. The objection to this is that it weakens very seriously the sanction. Conferences are apt to shrink from decisive action. Some of the members are timid, others want delay, and much time is consumed in calling the body together and in discussions after it meets. Meanwhile the war may have broken out, and be beyond control. It is much easier to prevent a fire than to put it out. The country that is planning war is likely to think it has friends in the conference, or neighbors that it can intimidate, who will prevent any positive decision until the fire is burning. Even if the majority decide on immediate action, the minority is not bound thereby. One great power refuses to take part; a second will not do so without her, the rest hesitate and nothing is done to prevent the war.

A conference is an excellent thing. The proposal of a league to enforce peace by no means excludes it; but the important matter, the effective principle, is that every member of the league should know that whether a conference meets or not, or whatever action it may take or fail to take, all the members of the league have pledged themselves to declare war forthwith on any member that commits a breach of the peace before submitting its case to the international tribunal or council of conciliation. Such a pledge, and such a pledge alone, can have the strong deterrent influence, and thus furnish the sanction, that is needed. Of course the pledge may not be kept. Like other treaties it may be broken by the parties to it. Nations are composed of human beings with human weaknesses, and one of these is a disinclination to perform an agreement when it involves a sacrifice. Nevertheless, nations, like men, often do have enough sense of honor, of duty, or of ultimate self-interest to carry out their contracts at no little immediate sacrifice. They are certainly more likely to do a thing if they have pledged themselves to it than if they have not; and any nation would be running a terrible risk that went to war in the hope that the other members of the league would break their pledges.

The same objection applies to another alternative proposed in place of an immediate resort to military force; that is the use of economic pressure, by a universal agreement, for example, to have no commercial intercourse with the nation breaking the peace. A threat of universal boycott is, no doubt, formidable, but by no means so formidable as a threat of universal war. A large country with great natural resources which has determined to make war might be willing to face commercial nonintercourse with the other members of the league during hostilities, when it would not for a moment contemplate the risk of fighting them. A threat, for example, by England, France and Germany to stop all trade with the United States might or might not have prevented our going to war with Spain, but a declaration that they would take part with all their armies and navies against us would certainly have done so.

It has often been pointed out that the threat of general nonintercourse would bear much more hardly on some countries than on others. That may not in itself be a fatal objection, but a very serious con-

sideration arises from the fact that there would be a premium on preparation for war. A nation which had accumulated vast quantities of munitions, food and supplies of all kinds, might afford to disregard it; while another less fully prepared could not.

Moreover, economic pressure, although urged as a milder measure, is in fact more difficult to apply and maintain. A declaration of war is a single act, and when made sustains itself by the passion it inflames; while commercial nonintercourse is a continuous matter, subject to constant opposition exerted in an atmosphere relatively cool. Our manufacturers would complain bitterly at being deprived of dyestuffs and other chemical products on account of a quarrel in which we had no interest; the South would suffer severely by the loss of a market for cotton; the shipping firms and the exporters and importers of all kinds would be gravely injured; and all these interests would bring to bear upon Congress a pressure well-nigh irresistible. The same would be true of every other neutral country, a fact which would be perfectly well known to the intending belligerent and reduce its fear of a boycott.

But, it is said, why not try economic pressure first, and, if that fails, resort to military force, instead of inflicting at once on unoffending members of the league the terrible calamity of war? What do we mean by "if that fails"? Do we mean, if in spite of the economic pressure the war breaks out? But then the harm is done, the fire is ablaze and can be put out only by blood. The object of the league is not to chastise a country guilty of breaking the peace, but to prevent the outbreak of war, and to prevent it by the immediate prospect of such appalling consequences to the offender that he will not venture to run the risk. If a number of great powers were to pledge themselves, with serious intent, to wage war jointly and severally on any one of their members that attacked another before submitting the case to arbitration, it is in the highest degree improbable that the *casus foederis* would ever occur, while any less drastic provision would be far less effective.

An objection has been raised to the proposal for a league to enforce peace on the ground that it has in the past often proved difficult, if not impossible, to determine which of two belligerents began a war. The criticism is serious, and presents a practical difficulty, grave but

probably not insurmountable. The proposal merely lays down a general principle, and if adopted the details would have to be worked out very fully and carefully in a treaty which would specify the acts that would constitute the waging of war by one member upon another. These would naturally be, not the mere creating of apprehension, but specific acts, such as a declaration of war, invasion of territory, the use of force at sea not disowned within forty-eight hours, or an advance into a region in dispute. This last is an especially difficult point, but the portions of the earth's surface in which different nations have conflicting claims is growing less decade by decade. It must be remembered that the cases which would arise under a league of peace are not like those which have arisen in the past, where one nation was determined to go to war and merely sought to throw the moral responsibility on the other while getting the advantage of actually beginning hostilities. It is a case where each will strive to avoid the specific acts of war that may involve the penalty. The reader may have seen, in a country where personal violence is severely punished, two men shaking their fists in each other's faces, each trying to provoke the other to strike the first blow, and no fight after all.

There are many agreements in private business which are not easy to embody in formal contracts; agreements where, as in this case, the execution of the terms calls for immediate action, and where redress after an elaborate trial of the facts affords no real reparation. But, if the object sought is good, men do not condemn it on account of the difficulty in devising provisions that will accomplish the result desired; certainly not until they have tried to devise them. It may, indeed, prove impossible to draft a code of specific acts that will cover the ground; it may be impracticable to draft it so as to avoid issues of fact that can be determined only after a long sifting of evidence which would come too late; but surely that is no reason for failure to make the attempt. We are not making a treaty among nations. We are merely putting forward a suggestion for reducing war which seems to merit consideration.

A second difficulty that will sometimes arise is the rule of conduct to be followed pending the presentation of the question to the international tribunal. The continuance or cessation of the acts com-

plained of may appear to be, and may even be in fact, more important than the final decision. This has been brought to our attention forcibly by the sinking of the *Lusitania*. We should have no objection to submitting to arbitration the question of the right of submarines to torpedo merchant ships without warning, provided Germany abandoned the practice pending the arbitration; and Germany would probably have no objection to submitting the question to a tribunal on the understanding that the practice was to continue until the decision was rendered, because by that time the war would be over. This difficulty is inherent in every plan for the arbitration of international disputes, although more serious in a league whose members bind themselves to prevent by force the outbreak of war. It would be necessary to give the tribunal summary authority to decree a *modus vivendi*, to empower it, like a court of equity, to issue a temporary injunction.

In short, the proposal for a league to enforce peace cannot meet all possible contingencies. It cannot prevent all future wars, nor does any sensible person believe that any plan can do so in the present state of civilization. But it can prevent some wars that would otherwise take place, and, if it does that, it will have done much good.

People have asked how such a league would differ from the Triple Alliance or Triple Entente, whether it would not be nominally a combination for peace which might have quite a different effect. But in fact its object is quite contrary to those alliances. They are designed to protect their members against outside powers. This is intended to insure peace among the members themselves. If it grew strong enough, by including all the great powers, it might well insist on universal peace by compelling the outsiders to come in. But that is not its primary object, which is simply to prevent its members from going to war with one another. No doubt if several great nations, and some of the smaller ones, joined it, and if it succeeded in preserving constant friendly relations among its members, there would grow up among them a sense of solidarity which would make any outside power chary of attacking one of them; and, what is more valuable, would make outsiders want to join it. But there is little use in speculating about probabilities. It is enough if such a league were a source of enduring peace among its own members.

How about our own position in the United States? The proposal is a radical and subversive departure from the traditional policy of our country. Would it be wise for us to be parties to such an agreement? At the threshold of such a discussion one thing is clear. If we are not willing to urge our own government to join a movement for peace, we have no business to discuss any plan for the purpose. It is worse than futile, it is an impertinence, for Americans to advise the people of Europe how they ought to conduct their affairs if we have nothing in common with them; to suggest to them conventions with burdens which are well enough for them, but which we are not willing to share. If our peace organizations are not prepared to have us take part in the plans they devise, they had better disband, or confine their discussions to Pan American questions.

To return to the question; would it be wise for the United States to make so great a departure from its traditional policy? The wisdom of consistency lies in adherence to a principle so long as the conditions upon which it is based remain unchanged. But the conditions that affect the relation of America to Europe have changed greatly in the last hundred and twenty years. At that time it took about a month to cross the ocean to our shores. Ships were small and could carry few troops. Their guns had a short range. No country had what would now be called more than a very small army; and it was virtually impossible for any foreign nation to make more than a raid upon our territory before we could organize and equip a sufficient force to resist, however unprepared we might be at the outset. But now, by the improvements in machinery, the Atlantic has shrunk to a lake, and before long will shrink to a river. Except for the protection of the navy, and perhaps in spite of it, a foreign nation could land on our coast an army of such a size, and armed with such weapons, that unless we maintain troops several times larger than our present forces, we should be quite unable to oppose them before we had suffered incalculable damage.

It is all very well to assert that we have no desire to quarrel with any one, or any one with us; but good intentions in the abstract, even if accompanied by long-suffering and a disposition to overlook affronts, will not always keep us out of strife. When a number of

great nations are locked in a death grapple they are a trifle careless of the rights of the bystander. Within fifteen years of Washington's Farewell Address we were drawn into the wars of Napoleon, and a sorry figure we made for the most part of the fighting on land. A hundred years later our relations with the rest of the world are far closer, our ability to maintain a complete isolation far less. Except by colossal self-deception we cannot believe that the convulsions of Europe do not affect us profoundly, that wars there need not disturb us, that we are not in danger of being drawn into them; or even that we may not some day find ourselves in the direct path of the storm. If our interest in the maintenance of peace is not quite so strong as that of some other nations, it is certainly strong enough to warrant our taking steps to preserve it, even to the point of joining a league to enforce it. The cost of the insurance is well worth the security to us.

If mere material self-interest would indicate such a course, there are other reasons to confirm it. Civilization is to some extent a common heritage which it is worth while for all nations to defend, and war is a scourge which all peoples should use every rational means to reduce. If the family of nations can by standing together make wars less frequent, it is clearly their duty to do so, and in such a body we do not want the place of our own country to be vacant.

To join such a league would mean, no doubt, a larger force of men trained for arms in this country, more munitions of war on hand, and better means of producing them rapidly; for although it may be assumed that the members of the league would never be actually called upon to carry out their promise to fight, they ought to have a potential force for the purpose. But in any case this country ought not to be so little prepared for an emergency as it is to-day, and it would require to be less fully armed if it joined a league pledged to protect its members against attack, than if it stood alone and unprotected. In fact the tendency of such a league, by procuring at least delay before the outbreak of hostilities, would be to lessen the need of preparation for immediate war, and thus have a more potent effect in reducing armaments than any formal treaties, whether made voluntarily or under compulsion.

The proposal for a league to enforce peace does not conflict with

plans to go farther, to enforce justice among nations by compelling compliance with the decisions of a tribunal by diplomatic, economic or military pressure. Nor, on the other hand, does it imply any such action, or interfere with the independence or sovereignty of states except in this one respect, that it would prohibit any member, before submitting its claims to arbitration, from making war upon another on pain of finding itself at war with all the rest. The proposal is only a suggestion, defective probably, crude certainly, but if, in spite of that, it is the most promising plan for maintaining peace now brought forward, it merits sympathetic consideration both here and abroad.

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Action by the American Government favorable to the proposals of the League will depend on the expression of public opinion in their favor throughout the country. People everywhere are urged to join the League, to circulate its literature (sent free on application), to invite others to become members, to secure resolutions in their favor and to mould public opinion in all effective ways. Copies of resolutions should be sent to the President of the United States, to the Secretary of State, to the Senators representing the State in which they are adopted, and to the office of the League.

MEMBERSHIP BLANK

LEAGUE TO ENFORCE PEACE,
HON. WILLIAM HOWARD TAFT, PRES.
507 Fifth Avenue, New York.

Gentlemen,—I am in sympathy with the purpose and the proposals of the League to Enforce Peace, organized in Independence Hall, Philadelphia, June 17th, 1915, and wish to be enrolled as a member. (*I enclose a contribution of $.....for the expenses of the educational work of the League.)

(Signed)

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*No membership dues are required, but contributions will be welcomed. Checks should be made payable to Herbert S. Houston, Treasurer. Both men and women are eligible for membership.

World Peace Foundation

Pamphlet Series

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CONCERNING

NEUTRAL AND BELLIGERENT RIGHTS

ISSUED SINCE AUGUST 4, 1914

SINKING OF THE "LUSITANIA," AND ATTACKS UPON OTHER SHIPS

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VIII. Sinking of the "Lusitania," and Attacks on the "Falaba," "Gulflight," "Cushing," "Nebraskan" and "Arabic."

1. Advertisement Published in American Newspapers by the Imperial German Embassy.[1]

NOTICE.

Travelers intending to embark on the Atlantic voyage are reminded that a state of war exists between Germany and her allies and Great Britain and her allies; that the zone of war includes the waters adjacent to the British Isles; that, in accordance with formal notice given by the Imperial German Government, vessels flying the flag of Great Britain, or of any of her allies, are liable to destruction in those waters and that travelers sailing in the war zone on ships of Great Britain or her allies do so at their own risk.

IMPERIAL GERMAN EMBASSY,
WASHINGTON, D.C., April 22, 1915.

2. The Imperial German Ambassador to the Secretary of State.[2]

BERLIN (via London), May 10, 1915.

The following dispatch has been sent by the German Foreign Office to the German Embassy at Washington;

"Please communicate the following to the State Department:

"The German Government desires to express its deepest sympathy at the loss of lives on board the *Lusitania*. The responsibility rests, however, with the British Government, which, through its plan of starving the civilian population of Germany, has forced Germany to resort to retaliatory measures.

"In spite of the German offer to stop the submarine war in case the starvation plan was given up, British merchant vessels are being generally armed with guns and have repeatedly tried to ram submarines, so that a previous search was impossible. They cannot, therefore, be treated as ordinary merchant vessels. A recent declaration made to the British

[1] This advertisement is extra-diplomatic, but is here reprinted (from the New York *Times*) because of the reference to it in the Department of State's note of May 13, below, page 175. The facts of the *Lusitania* case are to be found in *The New York Times Current History*, II, 413–447.

[2] Reprinted from newspaper reports.

Parliament by the Parliamentary Secretary in answer to a question by Lord Charles Beresford said that at the present practically all British merchant vessels were armed and provided with hand grenades. Besides, it has been openly admitted by the English press that the *Lusitania* on previous voyages repeatedly carried large quantities of war material. On her present voyage the *Lusitania* carried fifty-four hundred cases of ammunition, while the rest of her cargo also consisted chiefly of contraband.

"If England, after repeated official and unofficial warnings, considered herself able to declare that that boat ran no risk and thus light-heartedly assumed responsibility for the human life on board a steamer which, owing to its armament and cargo, was liable to destruction, the German Government, in spite of its heartfelt sympathy for the loss of American lives, cannot but regret that Americans felt more inclined to trust to English promises than to pay attention to the warnings from the German side.

"FOREIGN OFFICE."

3. The American Ambassador at Berlin to the Secretary of State.[1]

WASHINGTON, May 11.

Secretary Bryan received from Ambassador Gerard at Berlin to-day the text of an official declaration by the German Government of its policy with respect to American and other neutral ships meeting German submarines in the naval war zone around the British Isles and in the North Sea. This declaration was handed to Mr. Gerard by the German Foreign Office, which explained that it was being issued as a "circular statement" in regard to "mistaken attacks by German submarines on commerce vessels of neutral nations." It reads:

"First—The Imperial German Government has naturally no intention of causing to be attacked by submarines or aircraft such neutral ships of commerce in the zone of naval warfare, more definitely described in the notice of the German Admiralty staff of February 4 last, as have been guilty of no hostile act. On the contrary, the most definite instructions have repeatedly been issued to German war vessels to avoid attacks on such ships under all circumstances. Even when such ships have contraband of war on board they are dealt with by submarines solely according to the rules of international law applying to prize warfare.

"Second—Should a neutral ship nevertheless come to harm through German submarines or aircraft on account of an unfortunate (* * *)[2] in

[1] Dispatch reprinted from the New York *Times*, May 12, 1915. [2] Omission.

the above mentioned zone of naval warfare, the German Government will unreservedly recognize its responsibility therefor. In such a case it will express its regrets and afford damages without first instituting a prize court action.

"Third—It is the custom of the German Government, as soon as the sinking of a neutral ship in the above mentioned zone of naval warfare is ascribed to German war vessels to institute an immediate investigation into the cause. If grounds appear thereby to be given for association of such a hypothesis, the German Navy places itself in communication with the interested neutral Government so that the latter may also institute an investigation. If the German Government is thereby convinced that the ship has been destroyed by Germany's war vessels it will not delay in carrying out the provisions of Paragraph 2 above. In case the German Government, contrary to the viewpoint of the neutral Government, is not convinced by the result of the investigation, the German Government has already on several occasions declared itself ready to allow the question to be decided by an international investigation commission, according to Chapter 3 of the Hague convention of October 18, 1907, for the peaceful solution of international disputes."

4. The Secretary of State to the American Ambassador at Berlin.

(TELEGRAM.)

DEPARTMENT OF STATE,
WASHINGTON, May 13, 1915.

No. 1664.]

Please call on the Minister of Foreign Affairs and after reading to him this communication leave with him a copy.

In view of recent acts of the German authorities in violation of American rights on the high seas, which culminated in the torpedoing and sinking of the British steamship *Lusitania* on May 7, 1915, by which over 100 American citizens lost their lives, it is clearly wise and desirable that the Government of the United States and the Imperial German Government should come to a clear and full understanding as to the grave situation which has resulted.

The sinking of the British passenger steamer *Falaba* by a German submarine on March 28, through which Leon C. Thrasher, an American citizen, was drowned; the attack on April 28 on the American vessel *Cushing* by a German aeroplane; the torpedoing on May 1 of the American vessel *Gulflight* by a German submarine, as a result of which two or more American

citizens met their death; and, finally, the torpedoing and sinking of the steamship *Lusitania*, constitute a series of events which the Government of the United States has observed with growing concern, distress, and amazement.

Recalling the humane and enlightened attitude hitherto assumed by the Imperial German Government in matters of international right, and particularly with regard to the freedom of the seas; having learned to recognize the German views and the German influence in the field of international obligation as always engaged upon the side of justice and humanity; and having understood the instructions of the Imperial German Government to its naval commanders to be upon the same plane of humane action prescribed by the naval codes of other nations, the Government of the United States was loath to believe—it cannot now bring itself to believe—that these acts, so absolutely contrary to the rules, the practices, and the spirit of modern warfare, could have the countenance or sanction of that great Government. It feels it to be its duty, therefore, to address the Imperial German Government concerning them with the utmost frankness and in the earnest hope that it is not mistaken in expecting action on the part of the Imperial German Government which will correct the unfortunate impressions which have been created and vindicate once more the position of that Government with regard to the sacred freedom of the seas.

The Government of the United States has been apprised that the Imperial German Government considered themselves to be obliged by the extraordinary circumstances of the present war and the measures adopted by their adversaries in seeking to cut Germany off from all commerce, to adopt methods of retaliation which go much beyond the ordinary methods of warfare at sea, in the proclamation of a war zone from which they have warned neutral ships to keep away. This Government has already taken occasion to inform the Imperial German Government that it cannot admit the adoption of such measures or such a warning of danger to operate as in any degree an abbreviation of the rights of American shipmasters or of American citizens bound on lawful errands as passengers on merchant ships of belligerent nationality; and that it must hold the Imperial German Government to a strict accountability for any infringement of those rights, intentional or incidental. It does not understand the Imperial German Government to question those rights. It assumes, on the contrary, that the Imperial Government accept, as of course, the rule that the lives of noncombatants, whether they be of neutral citizenship or citizens of one of the nations at war, cannot lawfully or rightfully be put in jeopardy by the capture or destruction of an unarmed merchantman, and recognize also, as all other

nations do, the obligation to take the usual precaution of visit and search to ascertain whether a suspected merchantman is in fact of belligerent nationality or is in fact carrying contraband of war under a neutral flag.

The Government of the United States, therefore, desires to call the attention of the Imperial German Government with the utmost earnestness to the fact that the objection to their present method of attack against the trade of their enemies lies in the practical impossibility of employing submarines in the destruction of commerce without disregarding those rules of fairness, reason, justice, and humanity, which all modern opinion regards as imperative. It is practically impossible for the officers of a submarine to visit a merchantman at sea and examine her papers and cargo. It is practically impossible for them to make a prize of her; and, if they cannot put a prize crew on board of her, they cannot sink her without leaving her crew and all on board of her to the mercy of the sea in her small boats. These facts, it is understood, the Imperial German Government frankly admit. We are informed that in the instances of which we have spoken time enough for even that poor measure of safety was not given, and in at least two of the cases cited not so much as a warning was received. Manifestly submarines cannot be used against merchantmen, as the last few weeks have shown, without an inevitable violation of many sacred principles of justice and humanity.

American citizens act within their indisputable rights in taking their ships and in traveling wherever their legitimate business calls them upon the high seas, and exercise those rights in what should be the well-justified confidence that their lives will not be endangered by acts done in clear violation of universally acknowledged international obligations, and certainly in the confidence that their own Government will sustain them in the exercise of their rights.

There was recently published in the newspapers of the United States, I regret to inform the Imperial German Government, a formal warning, purporting to come from the Imperial German Embassy at Washington, addressed to the people of the United States, and stating, in effect, that any citizen of the United States who exercised his right of free travel upon the seas would do so at his peril if his journey should take him within the zone of waters within which the Imperial German Navy was using submarines against the commerce of Great Britain and France, notwithstanding the respectful but very earnest protest of his Government, the Government of the United States. I do not refer to this for the purpose of calling the attention of the Imperial German Government at this time to the surprising irregularity of a communication from the Imperial German Embassy

at Washington addressed to the people of the United States through the newspapers, but only for the purpose of pointing out that no warning that an unlawful and inhumane act will be committed can possibly be accepted as an excuse or palliation for that act or as an abatement of the responsibility for its commission.

Long acquainted as this Government has been with the character of the Imperial German Government and with the high principles of equity by which they have in the past been actuated and guided, the Government of the United States cannot believe that the commanders of the vessels which committed these acts of lawlessness did so except under a misapprehension of the orders issued by the Imperial German naval authorities. It takes it for granted that, at least within the practical possibilities of every such case, the commanders even of submarines were expected to do nothing that would involve the lives of noncombatants or the safety of neutral ships, even at the cost of failing of their object of capture or destruction. It confidently expects, therefore, that the Imperial German Government will disavow the acts of which the Government of the United States complains, that they will make reparation so far as reparation is possible for injuries which are without measure, and that they will take immediate steps to prevent the recurrence of anything so obviously subversive of the principles of warfare for which the Imperial German Government have in the past so wisely and so firmly contended.

The Government and people of the United States look to the Imperial German Government for just, prompt, and enlightened action in this vital matter with the greater confidence because the United States and Germany are bound together not only by special ties of friendship but also by the explicit stipulations of the Treaty of 1828, between the United States and the Kingdom of Prussia.

Expressions of regret and offers of reparation in case of the destruction of neutral ships sunk by mistake, while they may satisfy international obligations, if no loss of life results, cannot justify or excuse a practice, the natural and necessary effect of which is to subject neutral nations and neutral persons to new and immeasurable risks.

The Imperial German Government will not expect the Government of the United States to omit any word or any act necessary to the performance of its sacred duty of maintaining the rights of the United States and its citizens and of safeguarding their free exercise and enjoyment.

BRYAN.

5. The German Minister for Foreign Affairs to the American Ambassador at Berlin.

BERLIN, May 28, 1915.

No. 2326.]

The undersigned has the honor to make the following reply to the note of His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, dated the fifteenth instant, on the subject of the impairment of many American interests by the German submarine war.

The Imperial Government has subjected the statements of the Government of the United States to a careful examination and has the lively wish on its part also to contribute in a convincing and friendly manner to clear up any misunderstandings which may have entered into the relations of the two Governments through the events mentioned by the American Government.

With regard firstly to the cases of the American steamers *Cushing* and *Gulflight*, the American Embassy has already been informed that it is far from the German Government to have any intention of ordering attacks by submarines or flyers on neutral vessels in the zone which have not been guilty of any hostile act; on the contrary the most explicit instructions have been repeatedly given the German armed forces to avoid attacking such vessels. If neutral vessels have come to grief through the German submarine war during the past few months by mistake, it is a question of isolated and exceptional cases which are traceable to the misuse of flags by the British Government in connection with carelessness or suspicious actions on the part of the captains of the vessels. In all cases where a neutral vessel through no fault of its own has come to grief through the German submarine or flyers according to the facts as ascertained by the German Government, this Government has expressed its regret at the unfortunate occurrence and promised indemnification where the facts justified it. The German Government will treat the cases of the American steamers *Cushing* and *Gulflight* according to the same principles. An investigation of these cases is in progress. Its results will be communicated to the Embassy shortly. The investigation might, if thought desirable, be supplemented by an International Commission of Inquiry, pursuant to Title Three of The Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

In the case of the sinking of the English steamer *Falaba*, the commander of the German submarine had the intention of allowing passengers and crew ample opportunity to save themselves.

It was not until the captain disregarded the order to lay to and took to flight, sending up rocket signals for help, that the German commander ordered the crew and passengers by signals and megaphone to leave the ship within 10 minutes. As a matter of fact he allowed them 23 minutes and did not fire the torpedo until suspicious steamers were hurrying to the aid of the *Falaba*.

With regard to the loss of life when the British passenger steamer *Lusitania* was sunk, the German Government has already expressed its deep regret to the neutral Governments concerned that nationals of those countries lost their lives on that occasion. The Imperial Government must state for the rest the impression that certain important facts most directly connected with the sinking of the *Lusitania* may have escaped the attention of the Government of the United States. It therefore considers it necessary in the interest of the clear and full understanding aimed at by either Government primarily to convince itself that the reports of the facts which are before the two Governments are complete and in agreement.

The Government of the United States proceeds on the assumption that the *Lusitania* is to be considered as an ordinary unarmed merchant vessel. The Imperial Government begs in this connection to point out that the *Lusitania* was one of the largest and fastest English commerce steamers, constructed with Government funds as auxiliary cruisers, and is expressly included in the navy list published by British Admiralty. It is moreover known to the Imperial Government from reliable information furnished by its officials and neutral passengers that for some time practically all the more valuable English merchant vessels have been provided with guns, ammunition and other weapons, and reinforced with a crew specially practiced in manning guns. According to reports at hand here, the *Lusitania* when she left New York undoubtedly had guns on board which were mounted under decks and masked.

The Imperial Government furthermore has the honor to direct the particular attention of the American Government to the fact that the British Admiralty by a secret instruction of February of this year advised the British merchant marine not only to seek protection behind neutral flags and markings, but even when so disguised to attack German submarines by ramming them. High rewards have been offered by the British Government as a special incentive for the destruction of the submarines by merchant vessels, and such rewards have already been paid out. In view of these facts, which are satisfactorily known to it, the Imperial Government is unable to consider English merchant vessels any longer as "undefended territory" in the zone of maritime war designated by the Admiralty Staff

of the Imperial German Navy, the German commanders are consequently no longer in a position to observe the rules of capture otherwise usual and with which they invariably complied before this. Lastly, the Imperial Government must specially point out that on her last trip the *Lusitania*, as on earlier occasions, had Canadian troops and munitions on board, including no less than 5,400 cases of ammunition destined for the destruction of brave German soldiers who are fulfilling with self-sacrifice and devotion their duty in the service of the Fatherland. The German Government believes that it acts in just self-defense when it seeks to protect the lives of its soldiers by destroying ammunition destined for the enemy with the means of war at its command. The English steamship company must have been aware of the dangers to which passengers on board the *Lusitania* were exposed under the circumstances. In taking them on board in spite of this the company quite deliberately tried to use the lives of American citizens as protection for the ammunition carried, and violated the clear provisions of American laws which expressly prohibit, and provide punishment for, the carrying of passengers on ships which have explosives on board. The company thereby wantonly caused the death of so many passengers. According to the express report of the submarine commander concerned, which is further confirmed by all other reports, there can be no doubt that the rapid sinking of the *Lusitania* was primarily due to the explosion of the cargo of ammunition caused by the torpedo. Otherwise, in all human probability, the passengers of the *Lusitania* would have been saved.

The Imperial Government holds the facts recited above to be of sufficient importance to recommend them to a careful examination by the American Government. The Imperial Government begs to reserve a final statement of its position with regard to the demands made in connection with the sinking of the *Lusitania* until a reply is received from the American Government, and believes that it should recall here that it took note with satisfaction of the proposals of good offices submitted by the American Government in Berlin and London with a view to paving the way for a *modus vivendi* for the conduct of maritime war between Germany and Great Britain. The Imperial Government furnished at that time ample evidence of its good will by its willingness to consider these proposals. The realization of these proposals failed, as is known, on account of their rejection by the Government of Great Britain.

The undersigned requests His Excellency, the Ambassador, to bring the above to the knowledge of the American Government and avails himself of the opportunity to renew, etc.

VON JAGOW.

6. The German Minister for Foreign Affairs to the American Ambassador at Berlin.

(TRANSLATION.)

BERLIN, June 1, 1915.

With reference to the note of May 28, the undersigned has the honor to inform His Excellency, the American Ambassador of the United States of America, Mr. James W. Gerard, that the examination undertaken on the part of the German Government concerning the cases of the American steamers *Gulflight* and *Cushing* has led to the following conclusions:

In regard to the attack on the steamer *Gulflight*, the commander of a German submarine saw on the afternoon of May 1, in the vicinity of the Scilly Islands, a large merchant steamer coming toward him, which was accompanied by two small vessels. These latter took up such a position in relation to the steamer that they formed a regulation safeguard against submarines; one of them, moreover, had a wireless apparatus, which is not as a rule usual with small vessels. From this it was evidently a case of English convoy vessels. Since such vessels are regularly armed, the submarine could not approach the steamer on the surface of the water without running the danger of destruction. On the other hand, it was to be assumed that the steamer was of considerable value to the British Government since it was so particularly guarded. The commander could see no neutral markings on it of any kind, that is, distinctive marks painted on the freeboard, recognizable at a distance, such as are now usual on neutral ships in the English zone of naval warfare. In consequence, he arrived at the conclusion from all the circumstances that he had to deal with an English steamer and attacked submerged. The torpedo came in the immediate neighborhood of one of the convoy ships, which at once rapidly approached the point of firing, so that the submarine was forced to go to a great depth to avoid being rammed; the conclusion of the commander that an English convoy ship was concerned was in this way confirmed. That the attacked steamer carried the American flag was first observed at the moment of firing the shot. The fact that the steamship was pursuing a course which led neither to nor from America was a further reason why it did not occur to the commander of the submarine that he had to deal with an American steamship.

Upon scrutiny of the time and place of the occurrence described, the German Government has become convinced that the attacked steamship was actually the American steamship *Gulflight*. According to the attendant

circumstances, there can be no doubt that the attack is not to be attributed to the fault of the commander, but to an unfortunate accident. The German Government expresses its regrets to the Government of the United States concerning this incident and declares itself ready to furnish full recompense for the damage thereby sustained by American citizens. It begs to leave it to the discretion of the American Government to present a statement of this damage, or, if doubts may arise over individual points, to designate an expert, who would have to determine together with a German expert the amount of the damage.

It has not yet been possible by means of an inquiry fully to clear up the case of the American steamship *Cushing*. According to the official reports available, only one merchant steamship was attacked by a German flying machine in the vicinity of Nordhind Lightship. The German aviator considered the vessel as hostile, and was forced to consider it as such because it carried no flag, and also because of no further recognizable neutral markings. The attack, which was carried into effect by means of four bombs, was of course not aimed at any American ship.

That, however, the ship attacked was the American steamer *Cushing* is not impossible, considering the time and place of the occurrence; nevertheless the German Government accordingly requests the American Government to communicate to it the material which has been submitted for judgment, in order that, with this as a basis, it can take a further position in regard to the matter.

While the undersigned leaves it to the Ambassador to bring the foregoing to the immediate attention of his Government, he takes this opportunity to renew to him the assurance of his most distinguished consideration.

VON JAGOW.

7. The Secretary of State ad interim to the American Ambassador at Berlin.

DEPARTMENT OF STATE,
WASHINGTON, June 9, 1915.

No. 1803.]

American Ambassador, Berlin:

You are instructed to deliver textually the following note to the Minister of Foreign Affairs:

In compliance with Your Excellency's request I did not fail to transmit to my Government immediately upon their receipt your note of May 28 in

reply to my note of May 15, and your supplementary note of June 1, setting forth the conclusions so far as reached by the Imperial German Government concerning the attacks on the American steamers *Cushing* and *Gulflight*. I am now instructed by my Government to communicate the following in reply:

The Government of the United States notes with gratification the full recognition by the Imperial German Government, in discussing the cases of the *Cushing* and the *Gulflight*, of the principle of the freedom of all parts of the open sea to neutral ships and the frank willingness of the Imperial German Government to acknowledge and meet its liability where the fact of attack upon neutral ships "which have not been guilty of any hostile act" by German aircraft or vessels of war is satisfactorily established; and the Government of the United States will in due course lay before the Imperial German Government, as it requests, full information concerning the attack on the steamer *Cushing*.

With regard to the sinking of the steamer *Falaba*, by which an American citizen lost his life, the Government of the United States is surprised to find the Imperial German Government contending that an effort on the part of a merchantman to escape capture and secure assistance alters the obligation of the officers seeking to make the capture in respect of the safety of the lives of those on board the merchantman, although the vessel had ceased her attempt to escape when torpedoed. These are not new circumstances. They have been in the minds of statesmen and of international jurists throughout the development of naval warfare, and the Government of the United States does not understand that they have ever been held to alter the principles of humanity upon which it has insisted. Nothing but actual forcible resistance or continued efforts to escape by flight when ordered to stop for the purpose of visit on the part of the merchantman has ever been held to forfeit the lives of her passengers or crew. The Government of the United States, however, does not understand that the Imperial German Government is seeking in this case to relieve itself of liability, but only intends to set forth the circumstances which led the commander of the submarine to allow himself to be hurried into the course which he took.

Your Excellency's note, in discussing the loss of American lives resulting from the sinking of the steamship *Lusitania*, adverts at some length to certain information which the Imperial German Government has received with regard to the character and outfit of that vessel, and Your Excellency expresses the fear that this information may not have been brought to the attention of the Government of the United States. It is stated that the

Lusitania was undoubtedly equipped with masked guns, supplied with trained gunners and special ammunition, transporting troops from Canada, carrying a cargo not permitted under the laws of the United States to a vessel also carrying passengers, and serving, in virtual effect, as an auxiliary to the naval forces of Great Britain. Fortunately these are matters concerning which the Government of the United States is in a position to give the Imperial German Government official information. Of the facts alleged in Your Excellency's note, if true, the Government of the United States would have been bound to take official cognizance in performing its recognized duty as a neutral power and in enforcing its national laws. It was its duty to see to it that the *Lusitania* was not armed for offensive action, that she was not serving as a transport, that she did not carry a cargo prohibited by the statutes of the United States, and that, if in fact she was a naval vessel of Great Britain, she should not receive clearance as a merchantman; and it performed that duty and enforced its statutes with scrupulous vigilance through its regularly constituted officials. It is able, therefore, to assure the Imperial German Government that it has been misinformed. If the Imperial German Government should deem itself to be in possession of convincing evidence that the officials of the Government of the United States did not perform these duties with thoroughness the Government of the United States sincerely hopes that it will submit that evidence for consideration.

Whatever may be the contentions of the Imperial German Government regarding the carriage of contraband of war on board the *Lusitania* or regarding the explosion of that material by the torpedo, it need only be said that in the view of this Government these contentions are irrelevant to the question of the legality of the methods used by the German naval authorities in sinking the vessel.

But the sinking of passenger ships involves principles of humanity which throw into the background any special circumstances of detail that may be thought to affect the cases, principles which lift it, as the Imperial German Government will no doubt be quick to recognize and acknowledge, out of the class of ordinary subjects of diplomatic discussion or of international controversy. Whatever be the other facts regarding the *Lusitania*, the principal fact is that a great steamer, primarily and chiefly a conveyance for passengers, and carrying more than a thousand souls who had no part or lot in the conduct of the war, was torpedoed and sunk without so much as a challenge or a warning, and that men, women, and children were sent to their death in circumstances unparalleled in modern warfare. The fact that more than 100 American citizens were among those who perished made

it the duty of the Government of the United States to speak of these things and, once more with solemn emphasis, to call the attention of the Imperial German Government to the grave responsibility which the Government of the United States conceives that it has incurred in this tragic occurrence, and to the indisputable principle upon which that responsibility rests. The Government of the United States is contending for something much greater than mere rights of property or privileges of commerce. It is contending for nothing less high and sacred than the rights of humanity, which every Government honors itself in respecting and which no Government is justified in resigning on behalf of those under its care and authority. Only her actual resistance to capture or refusal to stop when ordered to do so for the purpose of visit could have afforded the commander of the submarine any justification for so much as putting the lives of those on board the ship in jeopardy. This principle the Government of the United States understands the explicit instructions issued on August 3, 1914, by the Imperial German Admiralty to its commanders at sea to have recognized and embodied, as do the naval codes of all other nations, and upon it every traveler and seaman had a right to depend. It is upon this principle of humanity as well as upon the law founded upon this principle that the United States must stand.

The Government of the United States is happy to observe that Your Excellency's note closes with the intimation that the Imperial German Government is willing, now as before, to accept the good offices of the United States in an attempt to come to an understanding with the Government of Great Britain by which the character and conditions of the war upon the sea may be changed. The Government of the United States would consider it a privilege thus to serve its friends and the world. It stands ready at any time to convey to either Government any intimation or suggestion the other may be willing to have it convey and cordially invites the Imperial German Government to make use of its services in this way at its convenience. The whole world is concerned in anything that may bring about even a partial accommodation of interests or in any way mitigate the terrors of the present distressing conflict.

In the mean time, whatever arrangement may happily be made between the parties to the war, and whatever may in the opinion of the Imperial German Government have been the provocation or the circumstantial justification for the past acts of its commanders at sea, the Government of the United States confidently looks to see the justice and humanity of the Government of Germany vindicated in all cases where Americans have been wronged or their rights as neutrals invaded.

The Government of the United States therefore very earnestly and very solemnly renews the representations of its note transmitted to the Imperial German Government on the 15th of May, and relies in these representations upon the principles of humanity, the universally recognized understandings of international law, and the ancient friendship of the German nation.

The Government of the United States cannot admit that the proclamation of a war zone from which neutral ships have been warned to keep away may be made to operate as in any degree an abbreviation of the rights either of American shipmasters or of American citizens bound on lawful errands as passengers on merchant ships of belligerent nationality. It does not understand the Imperial German Government to question those rights. It understands it, also, to accept as established beyond question the principle that the lives of noncombatants cannot lawfully or rightfully be put in jeopardy by the capture or destruction of an unresisting merchantman, and to recognize the obligation to take sufficient precaution to ascertain whether a suspected merchantman is in fact of belligerent nationality or is in fact carrying contraband of war under a neutral flag. The Government of the United States therefore deems it reasonable to expect that the Imperial German Government will adopt the measures necessary to put these principles into practice in respect of the safeguarding of American lives and American ships, and asks for assurances that this will be done.

ROBERT LANSING,
Secretary of State ad Interim.

8. The German Minister for Foreign Affairs to the American Ambassador at Berlin.

FOREIGN OFFICE,
BERLIN, July 8, 1915.

The undersigned has the honor to make the following reply to the note of His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, dated the 10th ultimo, Foreign Office No. 3814, on the subject of the impairment of American interests by the German submarine war:

The Imperial Government has learned with satisfaction from the note how earnestly the Government of the United States is concerned in seeing the principles of humanity realized in the present war. Also, this appeal meets with full sympathy in Germany, and the Imperial Government is

quite willing to permit its statements and decisions in the case under consideration to be governed by the principles of humanity just as it has done always.

The Imperial Government welcomed it with gratitude when the American Government in its note of May 15 itself recalled that Germany had always permitted itself to be governed by the principles of progress and humanity in dealing with the law of maritime war.

Since the time when Frederick the Great negotiated with John Adams, Benjamin Franklin, and Thomas Jefferson the treaty of friendship and commerce of September 10, 1785, between Prussia and the Republic of the West, German and American statesmen have, in fact, always stood together in the struggle for freedom of the seas and for the protection of peaceable trade.

In the international proceedings which have since been conducted for the regulation of the right of maritime war, Germany and America have jointly advocated progressive principles, especially the abolishment of the right of capture at sea and the protection of the interests of neutrals.

Even at the beginning of the present war the German Government immediately declared its willingness, in response to the proposal of the American Government, to ratify the Declaration of London and thereby to subject itself in the use of its naval forces to all the restrictions provided therein in favor of neutrals.

Germany has likewise been always tenacious of the principle that war should be conducted against the armed and organized forces of the enemy country, but that the civilian population of the enemy must be spared as far as possible from the measures of war. The Imperial Government cherishes the definite hope that some way will be found when peace is concluded, or perhaps earlier, to regulate the law of maritime war in a manner guaranteeing the freedom of the seas, and will welcome it with gratitude and satisfaction if it can work hand in hand with the American Government on that occasion.

If in the present war the principles which should be the ideal of the future have been traversed more and more the longer its duration, the German Government has no guilt therein. It is known to the American Government how Germany's adversaries, by completely paralyzing peaceable traffic between Germany and the neutral countries, have aimed from the very beginning, and with increasing lack of consideration, at the destruction not so much of the armed forces as the life of the German nation, repudiating in so doing all the rules of international law and disregarding all the rights of neutrals.

On November 3 England declared the North Sea to be a war area, and by planting poorly anchored mines and the stoppage and capture of vessels made the passage extremely dangerous and difficult for neutrals' shipping, so that it is actually blockading neutral coasts and ports, contrary to all international law. Long before the beginning of the submarine war England practically completely intercepted legitimate neutral navigation to Germany also. Thus Germany was driven to submarine war on trade.

On November 16 the English Prime Minister declared in the House of Commons that it was one of England's principal tasks to prevent food for the German population from reaching Germany by way of neutral ports. Since March 1 of this year England has been taking from neutral ships, without further formality, all merchandise proceeding to Germany, as well as all merchandise coming from Germany, even when neutral property. Just as was the case with the Boers, the German people is now to be given the choice of perishing from starvation, with its women and children, or relinquishing its independence.

While our enemies thus loudly and openly have proclaimed war without mercy until our utter destruction, we are conducting a war in self-defense for our national existence and for the sake of peace of assured permanency. We have been obliged to adopt submarine warfare to meet the declared intentions of our enemies and method of warfare adopted by them in contravention of international law.

With all its efforts in principle to protect neutral life and property from damage as much as possible, the German Government has recognized unreservedly in its memorandum of February 4 that the interests of neutrals might suffer from submarine warfare. However, the American Government will also understand and appreciate that, in the fight for existence which has been forced upon Germany by its adversaries and announced by them, it is the sacred duty of the Imperial Government to do all within its power to protect and to save the lives of German subjects. If the Imperial Government were derelict in these, its duties, it would be guilty before God and history of violation of those principles of highest humanity which are the foundation of every national existence.

The case of the *Lusitania* shows with horrible clearness to what jeopardizing of human lives the manner of conducting the war employed by our adversaries leads. In most direct contradiction of international law, all distinctions between merchantmen and war vessels have been obliterated by the order to British merchantmen to arm themselves and to ram submarines and promise of rewards therefor; and neutrals who use

merchantmen as travelers have thereby been exposed in an increasing degree to all the dangers of war.

If the commander of the German submarine which destroyed the *Lusitania* had caused the crew and travelers to put out in boats before firing the torpedo this would have meant the sure destruction of his own vessel. After the experiences in the sinking of much smaller and less seaworthy vessels, it was to be expected that a mighty ship like the *Lusitania* would remain above water long enough, even after the torpedoing, to permit the passengers to enter the ship's boats. Circumstances of a very peculiar kind, especially the presence on board of large quantities of highly explosive materials, defeated this expectation.

In addition it may be pointed out that if the *Lusitania* had been spared thousands of cases of ammunition would have been sent to Germany's enemies, and thereby thousands of German mothers and children robbed of their supporters.

In the spirit of friendship with which the German nation has been imbued toward the Union (United States) and its inhabitants since the earliest days of its existence, the Imperial Government will always be ready to do all it can during the present war also to prevent the jeopardizing of the lives of American citizens.

The Imperial Government, therefore, repeats the assurances that American ships will not be hindered in the prosecution of legitimate shipping and the lives of American citizens on neutral vessels shall not be placed in jeopardy.

In order to exclude any unforeseen dangers to American passenger steamers, made possible in view of the conduct of maritime war on the part of Germany's adversaries, the German submarines will be instructed to permit the free and safe passage of such passenger steamers, when made recognizable by special markings and notified a reasonable time in advance. The Imperial Government, however, confidently hopes that the American Government will assume the guarantee that these vessels have no contraband on board. The details of the arrangements for the unhampered passage of these vessels would have to be agreed upon by the naval authorities of both sides.

In order to furnish adequate facilities for travel across the Atlantic Ocean for American citizens, the German Government submits for consideration a proposal to increase the number of available steamers by installing in the passenger service a reasonable number of neutral steamers under the American flag, the exact number to be agreed upon under the same conditions as the American steamers above mentioned.

The Imperial Government believes that it can assume that in this manner adequate facilities for travel across the Atlantic Ocean can be afforded American citizens. There would, therefore, appear to be no compelling necessity for American citizens to travel to Europe in time of war on ships carrying an enemy flag. In particular, the Imperial Government is unable to admit that American citizens can protect an enemy ship through the mere fact of their presence on board.

Germany merely followed England's example when it declared part of the high seas an area of war. Consequently accidents suffered by neutrals on enemy ships in this area of war cannot well be judged differently from accidents to which neutrals are at all times exposed at the seat of war on land, when they betake themselves into dangerous localities in spite of previous warning.

If, however, it should not be possible for the American Government to acquire an adequate number of neutral passenger steamers, the Imperial Government is prepared to interpose no objections to the placing under the American flag by the American Government of four enemy passenger steamers for the passenger traffic between America and England. The assurances of "free and safe" passage for American passenger steamers would then be extended to apply under the identical pre-conditions to these formerly hostile passenger ships.

The President of the United States has declared his readiness, in a way deserving of thanks, to communicate and suggest proposals to the Government of Great Britain with particular reference to the alteration of maritime war. The Imperial Government will always be glad to make use of the good offices of the President, and hopes that his efforts in the present case, as well as in the direction of the lofty ideal of the freedom of the seas, will lead to an understanding.

The undersigned requests the Ambassador to bring the above to the knowledge of the American Government, and avails himself of the opportunity to renew to His Excellency the assurance of his most distinguished consideration.

VON JAGOW.

9. The American Ambassador at Berlin to the Secretary of State.

(TELEGRAM—PARAPHRASE.)

AMERICAN EMBASSY,
BERLIN, July 12, 1915.

Following memorandum just received from the Foreign Office:

Memorandum relative to the damaging of the American steamer *Nebraskan* by a German submarine:

"The German Government received from newspaper reports the intelligence that the American steamer *Nebraskan* had been damaged by a mine or torpedo on the southwest coast of Ireland. It therefore started a thorough investigation of the case without delay, and from the result of the investigation it has become convinced that the damage to the *Nebraskan* was caused by an attack by a submarine.

"On the evening of May 25 last the submarine met a steamer bound westward, without a flag, and with no neutral markings on her freeboard, about 35 nautical miles west of Fastnet Rock; no appliance of any kind for the illumination of the flag or markings was to be seen.

"In the twilight, which had already set in, the name of the steamer was not visible from the submarine. Since the commander of the submarine was obliged to assume, from his wide experience in the area of maritime war, that only English steamers, and no neutral steamers, traversed this war area without flag and markings, he attacked the vessel with a torpedo in the conviction that he had an enemy vessel before him.

"Some time after the shot the commander saw that the vessel had in the mean time hoisted the American flag. As a consequence he, of course, refrained from any further attack. Since the vessel remained afloat he had no occasion to concern himself further with the boats which had been launched.

"It results from this, without a doubt, that attack on the steamer *Nebraskan* was not meant for the American flag; nor is it traceable to any fault on the part of the commander of the German submarine, but is to be considered an unfortunate accident. The German Government expresses its regret at the occurrence to the Government of the United States of America and declares its readiness to make compensation for the damage thereby sustained by American citizens.

"As in the case of the steamer *Gulflight*, the German Government begs to suggest that the American Government submit to it a detailed statement of such damage or, if doubt might arise as to certain points, to designate an expert to fix the amount of compensation, acting in conjunction with a German expert."

GERARD.

10. The Secretary of State to the American Ambassador at Berlin.

(TELEGRAM.)

DEPARTMENT OF STATE,
WASHINGTON, July 21, 1915.

No. 1981.]

You are instructed to deliver textually the following note to the Minister for Foreign Affairs:

The note of the Imperial German Government dated the 8th of July, 1915, has received the careful consideration of the Government of the United States, and it regrets to be obliged to say that it has found it very unsatisfactory, because it fails to meet the real differences between the two Governments and indicates no way in which the accepted principles of law and humanity may be applied in the grave matter in controversy, but proposes, on the contrary, arrangements for a partial suspension of those principles which virtually set them aside.

The Government of the United States notes with satisfaction that the Imperial German Government recognizes without reservation the validity of the principles insisted on in the several communications which this Government has addressed to the Imperial German Government with regard to its announcement of a war zone and the use of submarines against merchantmen on the high seas—the principle that the high seas are free, that the character and cargo of a merchantman must first be ascertained before she can lawfully be seized or destroyed, and that the lives of non-combatants may in no case be put in jeopardy unless the vessel resists or seeks to escape after being summoned to submit to examination; for a belligerent act of retaliation is *per se* an act beyond the law, and the defense of an act as retaliatory is an admission that it is illegal.

The Government of the United States is, however, keenly disappointed to find that the Imperial German Government regards itself as in large degree exempt from the obligation to observe these principles, even where neutral vessels are concerned, by what it believes the policy and practice of the Government of Great Britain to be in the present war with regard to neutral commerce. The Imperial German Government will readily understand that the Government of the United States cannot discuss the policy of the Government of Great Britain with regard to neutral trade except with that Government itself, and that it must regard the conduct of other belligerent Governments as irrelevant to any discussion with the Imperial German Government of what this Government regards as grave and unjustifiable violations of the rights of American citizens by German naval commanders.

Illegal and inhuman acts, however justifiable they may be thought to be against an enemy who is believed to have acted in contravention of law and humanity, are manifestly indefensible when they deprive neutrals of their acknowledged rights, particularly when they violate the right to life itself.

If a belligerent cannot retaliate against an enemy without injuring the lives of neutrals, as well as their property, humanity, as well as justice and a due regard for the dignity of neutral powers, should dictate that the practice be discontinued.

If persisted in it would in such circumstances constitute an unpardonable offense against the sovereignty of the neutral nation affected. The Government of the United States is not unmindful of the extraordinary conditions created by this war or of the radical alterations of circumstance and method of attack produced by the use of instrumentalities of naval warfare which the nations of the world cannot have had in view when the existing rules of international law were formulated, and it is ready to make every reasonable allowance for these novel and unexpected aspects of war at sea; but it cannot consent to abate any essential or fundamental right of its people because of a mere alteration of circumstance. The rights of neutrals in time of war are based upon principle, not upon expediency, and the principles are immutable. It is the duty and obligation of belligerents to find a way to adapt the new circumstances to them.

The events of the past two months have clearly indicated that it is possible and practicable to conduct such submarine operations as have characterized the activity of the Imperial German Navy within the so-called war zone in substantial accord with the accepted practices of regulated warfare. The whole world has looked with interest and increasing satisfaction at the demonstration of that possibility by German naval commanders. It is manifestly possible, therefore, to lift the whole practice of submarine attack above the criticism which it has aroused and remove the chief causes of offense.

In view of the admission of illegality made by the Imperial Government when it pleaded the right of retaliation in defense of its acts, and in view of the manifest possibility of conforming to the established rules of naval warfare, the Government of the United States cannot believe that the Imperial Government will longer refrain from disavowing the wanton act of its naval commander in sinking the *Lusitania* or from offering reparation for the American lives lost, so far as reparation can be made for a needless destruction of human life by an illegal act.

The Government of the United States, while not indifferent to the friendly spirit in which it is made, cannot accept the suggestion of the Imperial

German Government that certain vessels be designated and agreed upon which shall be free on the seas now illegally proscribed. The very agreement would, by implication, subject other vessels to illegal attack and would be a curtailment and therefore an abandonment of the principles for which this Government contends and which in times of calmer counsels every nation would concede as of course.

The Government of the United States and the Imperial German Government are contending for the same great object, have long stood together in urging the very principles upon which the Government of the United States now so solemnly insists. They are both contending for the freedom of the seas.

The Government of the United States will continue to contend for that freedom, from whatever quarter violated, without compromise and at any cost. It invites the practical co-operation of the Imperial German Government at this time when co-operation may accomplish most and this great common object be most strikingly and effectively achieved.

The Imperial German Government expresses the hope that this object may be in some measure accomplished even before the present war ends. It can be. The Government of the United States not only feels obliged to insist upon it, by whomsoever violated or ignored, in the protection of its own citizens, but is also deeply interested in seeing it made practicable between the belligerents themselves, and holds itself ready at any time to act as the common friend who may be privileged to suggest a way.

In the mean time the very value which this Government sets upon the long and unbroken friendship between the people and Government of the United States and the people and Government of the German nation impels it to press very solemnly upon the Imperial German Government the necessity for a scrupulous observance of neutral rights in this critical matter. Friendship itself prompts it to say to the Imperial Government that repetition by the commanders of German naval vessels of acts in contravention of those rights must be regarded by the Government of the United States, when they affect American citizens, as deliberately unfriendly.

LANSING.

11. The German Ambassador's Request as to the "Arabic."[1]

The following statement concerning the German Government's attitude in regard to the *Arabic* was given out by Count von Bernstorff on August 24 in New York:

"The German Ambassador received the following instructions from Berlin, which he communicated to the Department of State:

"So far no official information available concerning the sinking of the *Arabic*.

"The German Government trusts that the American Government will not take a definite stand at hearing only the reports of one side, which, in the opinion of the Imperial Government, cannot correspond with the facts, but that a chance will be given to Germany to be heard equally.

"Although the Imperial Government does not doubt the good faith of the witnesses whose statements are reported by the newspapers in Europe, it should be borne in mind that these statements are naturally made under excitement which might easily produce wrong impressions.

"If Americans should actually have lost their lives, this would naturally be contrary to our intentions. The German Government would deeply regret the fact, and begs to tender sincerest sympathies to the American Government."

12. The German Ambassador to the Secretary of State.[2]

GERMAN EMBASSY,
WASHINGTON, September 1, 1915.

My Dear Mr. Secretary:

With reference to our conversation of this morning I beg to inform you that my instructions concerning our answer to your last *Lusitania* note contain the following passage:

"Liners will not be sunk by our submarines without warning and without safety of the lives of noncombatants, provided that the liners do not try to escape or offer resistance."

[1] Reprinted from newspaper reports.

[2] In connection with the letter, Secretary Lansing made the following statement: "In view of the clearness of the foregoing statement, it seems needless to make any comment in regard to it, other than to say that it appears to be a recognition of the fundamental principle for which we have contended."—New York *Times*, September 2, 1915.

Although I know that you do not wish to discuss the *Lusitania* question till the *Arabic* incident has been definitely and satisfactorily settled, I desire to inform you of the above because this policy of my Government was decided on before the *Arabic* incident occurred.

I have no objection to your making any use you may please of the above information.

I remain, etc.,

J. BERNSTORFF.

13. The American Ambassador at Berlin to the Secretary of State.

AMERICAN EMBASSY,
BERLIN, September 7, 1915.

Foreign Office sends me the following report of the sinking of the *Arabic*, with the request that it be brought to the knowledge of the American Government:

"On the 19th of August a German submarine stopped the English steamer *Dunsley* about sixty nautical miles south of Kinsale and was on the point of sinking the prize by gunfire after the crew had left the vessel. At this moment the commander saw a large steamer making directly toward him. This steamer, which, as developed later, was identical with the *Arabic*, was recognized as an enemy vessel, as she did not fly any flag and bore no neutral markings. When she approached she altered her original course, but then again pointed directly toward the submarine. From this the commander became convinced that the steamer had the intention of attacking and ramming him. In order to anticipate this attack he gave orders to have the submarine submerge and fired a torpedo at the steamer. After firing he convinced himself that the people on board were being rescued in fifteen boats.

"According to his instructions the commander was not allowed to attack the *Arabic* without warning and without saving lives unless the ship attempted to escape or offered resistance. He was forced to conclude from the attendant circumstances that the *Arabic* planned a violent attack on the submarine. This conclusion is all the more obvious, as he had been fired upon at a great distance in the Irish Sea on August 14—that is, a few days before—by a large passenger steamer apparently belonging to the British Royal Mail Steam Packet Company, which he had neither attacked nor stopped.

"The German Government most deeply regrets that lives were lost through the action of the commander. It particularly expresses this

regret to the Government of the United States on account of the death of American citizens. The German Government is unable, however, to acknowledge any obligation to grant indemnity in the matter, even if the commander should have been mistaken as to the aggressive intentions of the *Arabic*. If it should prove to be the case that it is impossible for the German and American Governments to reach a harmonious opinion on this point, the German Government would be prepared to submit the difference of opinion as being a question of international law to The Hague tribunal, pursuant to Article 38 of The Hague Convention for the pacific settlement of international disputes. In so doing it assumes that as a matter of course the arbitral decision shall not be admitted to have the importance of a general decision on the permissibility or the converse under international law of German submarine warfare. Berlin, September 7, 1915."

GERARD.

14. The American Ambassador at Berlin to the Secretary of State.

AMERICAN EMBASSY,
BERLIN, September 11, 1915.

No. 1507.]

Sir: With reference to my telegram of the 10th instant, No. 2867, I have the honor to transmit herewith a copy and translation of the note received from the Imperial Foreign Office dated September 9, 1915, inclosing the report of the attack on the steamer *Orduna* by a German submarine.

I have, etc.,

JAMES W. GERARD.

(INCLOSURE—TRANSLATION.)

THE GERMAN MINISTER FOR FOREIGN AFFAIRS TO AMBASSADOR GERARD.

FOREIGN OFFICE,
BERLIN, September 9, 1915.

The undersigned has the honor to transmit herewith to His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the notes of July 27 and September 1, 1915, F. O. 4444 and 4959,[1] a memorandum relative to the attack by a German submarine on the English passenger steamer *Orduna*.

The undersigned avails himself, etc.,

VON JAGOW.

[1] Not printed.

(SUBINCLOSURE—TRANSLATION.)

MEMORANDUM.

At about quarter past seven on the morning of July 9 last a German submarine sighted a steamer from 3 to 5 miles away and a sailing vessel about a mile away. The steamer was proceeding without any flag or neutral markings and was taken for a small enemy steamer by the commander of the submarine on account of the difficulty of observation caused by the unfavorable weather. The commander decided first to attack the steamer submerged and fired a torpedo at the vessel which missed its mark.

Hoping to catch the steamer above the water, the submarine rose and chased the steamer on the surface. The steamer did not stop when a shot of warning was fired, and therefore several shells were fired at her which did not strike her, as the submarine was pitching about and the distance was great. The submarine then proceeded to the sailing vessel, which was shown to be the American bark *Normandie*, bound from New York to Liverpool with a cargo of lumber. Although the cargo contained contraband, the sailing vessel was permitted to continue her voyage unhindered, as it was impossible to guarantee that the crew would be surely rescued in the small boats if the ship were sunk.

The first attack on the *Orduna* by a torpedo was not in accordance with the existing instructions, which provide that large passenger steamers are only to be torpedoed after previous warning and after the rescuing of passengers and crew. The failure to observe the instructions was based on an error, which is at any rate comprehensible, and the repetition of which appears to be out of the question, in view of the more explicit instructions issued in the meantime. Moreover, the commanders of the submarines have been reminded that it is their duty to exercise greater care and to observe carefully the orders issued.

BERLIN, September 9, 1915.

15. National Colors on Sides of Vessels.

(From Commerce Reports, September 25, 1915, No. 225, page 1441.)

The United States Bureau of Navigation brings to the attention of American shipping interests the following letter from Count J. H. von Bernstorff, German Ambassador to this country:

Mr. Secretary of State:

The Imperial Government has advised me that merchant vessels which desire to show their neutral allegiance by painting their national colors on the sides often make the mistake of having those distinctive signs so small that they cannot be made out from a distance.

Pursuant to instructions received, I leave it with Your Excellency to bring the foregoing to the notice of American shipowners in their own interests.

Accept, Mr. Secretary of State, the renewed assurance of my most distinguished high consideration.

J. BERNSTORFF.

To his Excellency the Secretary of State of the United States, Mr. Robert Lansing.

16. The German Ambassador to the Secretary of State

GERMAN EMBASSY,
WASHINGTON, October 5, 1915.

My dear Mr. Secretary:

Prompted by the desire to reach a satisfactory agreement with regard to the *Arabic* incident, my Government has given me the following instructions:

The orders issued by His Majesty the Emperor to the commanders of the German submarines—of which I notified you on a previous occasion—have been made so stringent that the recurrence of incidents similar to the *Arabic* case is considered out of the question.

According to the report of Commander Schneider of the submarine that sank the *Arabic*, and his affidavit as well as those of his men, Commander Schneider was convinced that the *Arabic* intended to ram the submarine. On the other hand, the Imperial Government does not doubt the good faith of the affidavits of the British officers of the *Arabic*, according to which

the *Arabic* did not intend to ram the submarine. The attack of the submarine, therefore, was undertaken against the instructions issued to the commander. The Imperial Government regrets and disavows this act and has notified Commander Schneider accordingly.

Under these circumstances my Government is prepared to pay an indemnity for American lives which to its deep regret have been lost on the *Arabic*. I am authorized to negotiate with you about the amount of this indemnity.

I remain, etc.,

J. BERNSTORFF.

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Compiled, with Notes, by

DENYS P. MYERS

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ARBITRATION ENGAGEMENTS[1]

Corrected to July 1, 1915.

The following list of arbitration engagements is designed to show the extent to which this pacific method of settling international disputes has become institutional. It includes provisions in national constitutions, treaty articles applying the principle to disputes in general, and the familiar general-arbitration convention. Treaties have been omitted that contain compromisory clauses, which provide only for the arbitration of questions arising out of the documents in which they are found. Also omitted are *compromis*, which are the treaties by which a specific dispute is submitted to arbitration. All engagements listed are believed to be in force, or eventually coming into force.

1828

Argentina—Brazil. Signed at Rio de Janeiro, August 27; preliminary convention of peace between the United Provinces of the Rio de la Plata and the Emperor of Brazil, Art. 18 of which is mediatory clause before declaration of war; ratifications exchanged at Montevidéo, October 4, 1828; text, *Tratados por la República Argentina*, I, 140, and *Tratados vigentes*, I, 25; no provision on expiration.

[1] The following abbreviations are used in citations:

B. and F. S. P., British and Foreign State Papers.

N. R. G., Nouveau Recueil général de traités, 3e série, other series being indicated.

A. J. I. L., American Journal of International Law, Supplement.

R. I. T., Recueil international de traités de XXe siècle.

For. Rel., Foreign Relations of the United States.

T. G. A., Traités généraux d'arbitrage communiqués au Bureau international de la Cour permanent d'arbitrage, première série; the second volume is indicated by a numeral added to the abbreviation.

C. P., Conférence internationale de la Paix. 1899.

Deux. Conf., Deuxième conférence de la Paix. 1907.

Treaties, etc., Treaties, Conventions, etc., between the United States of America and other Powers, 1776–1909; followed by III, the same, Supplement, 1909–1913.

Both the United States and Great Britain issue a Treaty Series. The American series numbers consecutively, the British year by year.

1829

Colombia—Peru. Signed at Guayaquil, September 22; treaty of peace, Art. 19 being general arbitral clause; ratifications exchanged at Guayaquil, October 27, 1829; text, *Nouveau Recueil*, X, 26, and Aranda, *Tratados del Perú*, III, 230; effective indefinitely.

1842

Colombia (New Granada)—Venezuela. Signed at Caracas, July 23; treaty of friendship, commerce and navigation, Art. 4 of which is general arbitral clause before declaration of war; ratifications exchanged at Bogotá, November 7, 1844; text, 33 B. and F. S. P., 820, Cadena, *Tratados de Colombia*, I, 161–162; perpetual as to political relations.

1848

Mexico—United States. Signed at Guadalupe Hidalgo, February 2; treaty of peace, friendship, limits and settlement, Art. XXI of which is general arbitral clause; ratifications exchanged May 30, 1848; ratification advised by Senate, with amendments, March 10, 1848; ratified by the President, March 16, 1848; ratified by Mexico; proclaimed, July 4, 1848; text, *Treaties, etc.*, I, 1117; effective indefinitely.

1856

Colombia (New Granada)—Ecuador. Signed at Bogotá, July 9; treaty of friendship, commerce and navigation, Art. 3 of which is general arbitral clause; ratifications exchanged at Quito, May 26, 1857; text, Cadena, *Tratados de Colombia*, I, 28; effective twelve years, then denunciable on one year's notice.

1863

Bolivia—Peru. Signed at Lima, November 5; treaty of peace and amity, Art. 26 of which provides for general arbitration; ratifications exchanged at Lima, January 21, 1865; text, Aranda, *Tratados del Perú*, II, 303; effective until eighteen months after denunciation.

1868

Norway—Siam. Signed at London, May 18; treaty of amity, commerce and navigation, Art. 25 of which is general arbitral clause without reserve; ratifications exchanged at London, November 9, 1869; ratified at Stockholm, November 27, 1868, and at Bangkok, July 14, 1869; text, C. P., I, 148, Annexes, 27, 69 B. and F. S. P., 1135, and N. R. G., 2e série, IV, 769; subject to revision on one year's notice.

Siam—Sweden. Signed at London, May 18; treaty of amity, commerce and navigation, Art. 25 of which is general arbitral clause without reserve; ratifications exchanged at London, November 9, 1869; text, C. P., I, 148, Annexes, 27, 69 B. and F. S. P., 1135, and N. R. G., 2e série, IV, 769; subject to revision on one year's notice.

Argentina—Bolivia. Signed at Buenos Aires, July 9; treaty of peace, friendship, commerce and navigation, Art. XIX of which is general semi-arbitral clause; ratifications exchanged at Buenos Aires, September 24, 1869; approved by Argentine Congress, July 23, 1869; text, *Tratados por la República Argentina*, II, 265, and *Tratados vigentes por la Argentina*, I, 150; effective twelve years, then from year to year.

Costa Rica—Nicaragua. Signed at San José, July 30; treaty of peace and amity, Art. 2 of which is general arbitral clause without reserve; ratifications exchanged June 10, 1869; text, 70 B. and F. S. P., 258, and *Tratados de Costa Rica*, I, 233; perpetual, revisable by agreement.

Belgium—Siam. Signed at London, August 29; treaty of amity and commerce, Art. 24 of which is general arbitral clause without reserve; ratifications exchanged at London; text, C. P., I, 142, Annexes, 23, 59 B. and F. S. P., 405, and N. R. G., 2e série, II, 779; effective, January 1, 1869, revisable on notice.

Italy—Siam. Signed at London, October 3; treaty of amity, commerce and navigation, Art. 27 of which is general arbitral clause without reserve; ratifications exchanged at Bangkok, January 1, 1871; text, 60 B. and F. S. P., 773; effective by ten-year periods until denounced.

1869

Austria-Hungary—Siam. Signed at Bangkok, May 17; treaty of commerce, Art. 26 of which is general arbitral clause without reserve; ratifications exchanged at Bangkok, April 30, 1872; text, C. P., I, 141, Annexes, 22, 61 B. and F. S. P., 1308, and N. R. G., 2e série, II, 438; no provision on expiration.

1870

Colombia—Peru. Signed at Lima, February 10; treaty of amity, commerce and navigation, Art. 32 of which is general arbitral clause without reserve; ratifications exchanged at Lima, March 3, 1873; text, Aranda, *Tratados del Perú*, III, 276; effective until one year after denunciation.

1873

Bolivia—Peru. Signed at Lima, February 6; treaty of defensive alliance, Art. 8 of which renders obligatory the use of means of conciliation before a

rupture of relations; ratifications exchanged at La Paz, June 16, 1873; text, Aranda, *Tratados del Perú*, II, 440; effective until one year after denunciation.

1874

Guatemala—Nicaragua. Signed at Guatemala, February 13; treaty of amity and commerce, Art. 2 of which is general arbitral clause without reserve; ratifications exchanged at Guatemala, July 15, 1875; text, 65 B. and F. S. P., 481; perpetual as to arbitration.

Argentina—Peru. Signed at Buenos Aires, March 9; treaty of amity, commerce and navigation, Art. 33 of which is general arbitral clause without reserve; ratifications exchanged at Buenos Aires, December 20, 1875; approved by Argentine Congress, September 28, 1874; text, N. R. G., 2e série, XII, 443; Aranda, *Tratados del Perú*, II, 29; *Tratados por la República Argentina*, II, 468, and *Tratados vigentes por la Argentina*, I, 171; effective ten years, then denunciable on one year's notice.

1876

Argentina—Paraguay.[2] Signed at Buenos Aires, February 3; definitive treaty of peace, Art. XXI of which is general semi-arbitral clause; ratifications exchanged at Buenos Aires, September 13, 1876; approved by Argentine Congress, July 7, 1876; text, *Tratados por la República Argentina*, III, 75, and *Tratados vigentes por la Argentina*, I, 183, and 68 B. and F. S. P., 86; no provision on expiration.

1878

Honduras—Salvador. Signed at Tegucigalpa, March 31; general treaty of peace, friendship, commerce and extradition, Art. 34 of which is general arbitral clause; ratifications exchanged at Tegucigalpa, December 17, 1880; text, 72 B. and F. S. P., 963; perpetual as to peace and friendship.

1882

Spain—Venezuela. Signed at Caracas, May 20; treaty of commerce and navigation, Art. 14 of which is general arbitral clause without reserve; ratifications exchanged at Caracas, September 19, 1882; text, C. P., I, 143, Annexes, 24, and 73 B. and F. S. P., 592; no provision on expiration.

[2] Relative to this treaty, which provides for employing "the pacific methods of soliciting and admitting the good offices of one or more friendly nations," Señor F. M. Quintana, counselor of the Argentine embassy, writes:

"ART. XXI should be considered in its spirit as providing for arbitration, inasmuch as, when international disputes have been involved, such has always been the solution proclaimed and maintained in fact by our statesmen for many years back."

1883

Paraguay—Uruguay. Signed at Asunción, April 20; treaty of peace and recognition of debt, Art. 8 of which provides for arbitration of conflicts capable of compromising amicable relations; ratifications exchanged at Montevidéo, November 24, 1883; text, 2 *Deux. Conf.*, 976, and N. R. G., 2e série, IX, 754, and *Tratados del Paraguay*, 1890, 66; no provision on expiration.

Salvador—Venezuela. Signed at Caracas, August 27; treaty of amity, commerce and navigation, Art. 42 of which is general arbitral clause without reserve; ratifications exchanged at Caracas, December 11, 1884; text, 74 B. and F. S. P., 298, and N. R. G., 2e série, XIV, 215; effective until one year after denunciation.

Salvador—Switzerland. Signed at Bern, October 30; treaty of amity, establishment and commerce, Art. 13 of which is general arbitral clause without reserve; ratifications exchanged at Bern, October 30, 1884; text, C. P., I, 151, Annexes, 31, and N. R. G., 2e série, X, 617; effective until one year after denunciation.

Nicaragua—Salvador. Signed at San Salvador, November 17; treaty of amity, commerce and extradition, Art. 33 of which is general arbitral clause without reserve; ratifications exchanged; text, N. R. G., 2e série, XIV, 229; no provision on expiration.

1884

Belgium—Venezuela. Signed at Caracas, March 1; treaty of amity, commerce and navigation, Art. 2 of which is general arbitral clause without reserve; ratifications exchanged at Caracas, February 8, 1886; text, C. P., I, 142, Annexes, 23, 75 B. and F. S. P., 39, and N. R. G., 2e série, XI, 613; effective until one year after denunciation.

1887

Belgium—Ecuador. Signed at Brussels, March 5; treaty of amity, commerce and navigation, Art. 2 of which is general arbitral clause without reserve; ratifications exchanged at Paris, February 10, 1888; text, C. P., I, 142, Annexes, 23, 78 B. and F. S. P., 947, and N. R. G., 2e série, XV, 740; effective until one year after denunciation.

1888

Ecuador—Spain. Signed at Madrid, May 23; additional treaty of peace and amity, Art. 1 of which is general arbitral clause applicable to treaty and non-treaty disputes; ratifications exchanged at Madrid, March

22, 1889; text, C. P., I, 143, Annexes, 24, 79 B. and F. S. P., 632, and N. R. G., VI, 679; no provision on expiration.

Ecuador—Switzerland. Signed at Paris, June 22; treaty of amity, establishment and commerce, Art. 4 of which is general arbitral clause without reserve; ratifications exchanged at Paris, July 23, 1889; text, C. P., I, 151, Annexes, 31, and N. R. G., 2e série, XVII, 173; effective until one year after denunciation.

1890

Ecuador—Salvador. Signed at Washington, March 29; treaty of amity, commerce and navigation, Arts. 1 and 2 of which are general arbitral clause without reserve; ratifications exchanged at San Salvador, May 15, 1891; text, 82 B. and F. S. P., 686, and N. R. G., 2e série, XXIV, 16; no provision on expiration.

Guatemala—Salvador. Signed at Guatemala, November 15; treaty of peace and amity, Arts. 5–8 of which are general arbitral provisions with reserve; ratifications exchanged July 1, 1891; text, N. R. G., 2e série, XVIII, 206, Salazar, *Tratados de Guatemala*, I, 613–615; perpetual as to peace and friendship.

1891

Brazil.[3] Constitution of February 24, 1891:

ART. 34. The National Congress shall have exclusive power:

11. To authorize the Government to declare war, when arbitration has failed or cannot take place, and to make peace.

1893

Mexico—Salvador. Signed at Mexico City, April 24; treaty of amity, commerce and navigation, Art. 1 of which is general arbitral clause for all arbitral questions; ratifications exchanged at Mexico City, November 16, 1893; text, N. R. G., 2e série, XX, 864, and *República Mexicana, Tratados, etc.*, I, 247; effective until six months after denunciation.

1894

Colombia—Spain. Signed at Bogotá, April 28; treaty additional to treaty of peace and amity, of January 30, 1881, Art. 1 of which is general arbitral clause without definite reserve; ratifications exchanged at Bogotá, August 23, 1895; text, C. P., I, 143, Annexes, 24, 86 B. and F. S. P., 572, and N. R. G., 2e série, XXXIII, 575, and Cadena, *Tratados de Colombia, Apéndice*, 39; no provision on expiration.

Netherlands—Portugal. Signed at Lisbon, July 5; declaration, Art.

[3] Rodriguez, *American Constitutions*, I, 142–143.

7 of which is general arbitral clause without definite reserve; ratifications exchanged at The Hague, May 22, 1896; text, N. R. G., 2e série, XXII, 591; effective until one year after denunciation.

Honduras—Spain. Signed at Guatemala, November 17; treaty of peace and amity, Art. 2 of which is general arbitral clause applicable to treaty and non-treaty disputes; ratifications exchanged at Guatemala, August 28, 1895; text, C. P., I, 143, Annexes, 25, and N. R. G., VII, 422; no provision on expiration.

1895

Guatemala—Honduras. Signed at Guatemala, March 10; treaty of union, and arbitration, commerce and navigation, Arts. 2–4 of which are general arbitral clauses specifying arbitral questions and then without reserve; ratifications exchanged at Guatemala, January 20, 1896; text, 87 B. and F. S. P., 673, and N. R. G., 2e série, XXXIV, 491; perpetual as to arbitration.

Costa Rica—Guatemala. Signed at , May 15; general treaty, Art. 1 of which is general arbitral clause without reserve; ratifications exchanged July 11, 1896; Lange, *L'Arbitrage obligatoire en 1913*, 88; perpetual as to arbitration.

Costa Rica—Salvador. Signed at , June 12; general treaty, Art. 1 of which is general arbitral clause without reserve; ratifications exchanged July 30, 1896; Lange, *L'Arbitrage obligatoire en 1913*, 88; perpetual as to arbitration.

Costa Rica—Honduras. Signed at , September 28; general treaty, Art. 2 of which is general arbitral clause without reserve; ratifications exchanged , September 3, 1896; Lange, *L'Arbitrage obligatoire en 1913*, 88; perpetual as to arbitration.

1897

Peru—Spain. Signed at Lima, July 16; treaty additional to treaty of peace of August 14, 1879, Art. 1 being general arbitral clause without definite reserve; ratifications exchanged at Lima, June 18, 1898; text, N. R. G., 2e série, IX, 747, and XXXII, 69, and 89 B. and F. S. P., 598; effective until one year after denunciation.

1899

Brazil—Chile. Signed at Rio de Janeiro, May 18; ratifications exchanged at Santiago, Chile, March 7, 1906; promulgated March 7, 1906, by Chile; text, 99 B. and F. S. P., I, 880, and N. R. G., I, 21, and II, 124; effective ten years and until one year after denunciation.

Argentina—Uruguay. Signed at Buenos Aires, June 8; ratifications exchanged at Buenos Aires, January 18, 1902; approved by Uruguayan parliament, March 15, 1900; modifying protocol signed December 21, 1901; approved by Uruguayan Parliament, December 28, 1901; text, 94 B. and F. S. P., 525, *For. Rel.*, 1899, 8, 2 *Deux. Conf.*, 934, 971, and T. G. A.; effective by ten-year periods.

Argentina—Paraguay. Signed at Asunción, November 6; ratifications exchanged at Asunción, June 5, 1902; additional protocol signed January 25, 1902; text, 92 B. and F. S. P., 485, 2 *Deux. Conf.*, 931; effective by ten-year periods.

1901

Bolivia—Peru. Signed at La Paz, November 21; ratifications exchanged at La Paz, December 29, 1903; agreement extending time of ratification signed November 11–12, 1902; text, 95 B. and F. S. P., 1018, N. R. G., III, 47, and 3 Supp., A. J. I. L., 378; effective by ten-year periods.

1902

Mexico—Spain. Signed at Mexico City, January 11; ratifications exchanged at Mexico City, April 13; approved by Mexican Senate, April 10; ratified by Spain, March 10, and by Mexican President, April 14; proclaimed in *Gaceta de Madrid* and *Boletín oficial del Ministerio de Estado*, April 19; text, 95 B. and F. S. P., 410, T. G. A., 7, and 2 *Deux. Conf.*, 970; effective ten years and until one year after denunciation.

Spain—Uruguay. Signed at Mexico City, January 28; ratifications exchanged at Montevidéo, November 21; proclaimed in both, December 24; text, 95 B. and F. S. P., 410, and T. G. A., 15; effective ten years and until one year after denunciation.

Salvador—Spain. Signed at Mexico City, January 28; ratifications exchanged at Guatemala City, September 28; proclaimed in *Gaceta de Madrid* and *Boletín oficial del Ministerio de Estado*, December 18; text, 95 B. and F. S. P., 409, and T. G. A., 13; effective ten years and until one year after denunciation.

San Domingo—Spain. Signed at Mexico City, January 28; ratifications exchanged at San Domingo, January 28, 1903; proclaimed textually in *Gaceta de Madrid*, May 5, 1903, and *Boletín oficial del Ministerio de Estado*, June 5, 1903; text, T. G. A., 11; effective ten years and until one year after denunciation.

Argentine Republic—Bolivia—Dominican Republic—Guatemala—Mexico—Paraguay—Peru—Salvador—Uruguay. Signed at Mexico City, January 29; ratifications[4] deposited at Mexico City by Mexico,

[4] By Article 21 the Treaty came into force as soon as three of those signing signified their approbation to the Mexican Government.

April 17, 1903 (approved by Senate, April 21, 1902); by Salvador, May 28, 1902; by Guatemala, August 25, 1902; by Uruguay, January 31, 1903 (approved by Uruguayan Parliament, September 30, 1902, ratified and proclaimed, October 2, 1902); by Peru, October 10, 1903; by Dominican Republic, September 30, 1904; text, T. G. A., 19, N. R. G., 6, 149, and *República Mexicana, Tratados*, I, 479; effective until denunciation.

Argentina—Bolivia. Signed at Buenos Aires, February 3; ratifications exchanged at Buenos Aires, January 27, 1903; modifying protocol signed July 19, 1902; text, 95 B. and F. S. P., 399, R. I. T., 1902, 151, 2 *Deux. Conf.*, 944; effective by ten-year periods.

Colombia—Spain. Signed at Mexico City, February 17; ratifications exchanged at Bogotá, August 10, 1903, and verified October 10; proclaimed in *Gaceta de Madrid*, October 22, 1904; text, T. G. A., 28, and 95 B. and F. S. P., 404; effective ten years, then until denunciation.

Bolivia—Spain. Signed at Mexico City, February 17; ratifications exchanged October 10, 1903; text, T. G. A., 26; effective twelve years and until one year after denunciation.

Guatemala—Spain. Signed at Mexico City, February 28; ratifications exchanged at Guatemala City, October 8, 1902; text, 95 B. and F. S. P., 405, and T. G. A., 30; effective ten years and until one year after denunciation.

Mexico—Persia. Signed at Washington, May 14; treaty of commerce and navigation, Art. 5 of which is general arbitral provision; ratifications exchanged March 12, 1903; approved by Mexican Senate, December 10, 1902, and ratified by President, December 28, 1902; ratified by the Shah; text, *República Mexicana, Tratados y Convenciones vigentes*, I, 489, and *Boletín oficial*, XV, 321; effective until one year after denunciation.

Argentina—Chile. Signed at Santiago, May 28; ratifications exchanged at Santiago, September 22; preliminary act and additional explication signed May 28 and July 10, 1902; text, 95 B. and F. S. P., 759, 1 Supp., A. J. I. L., 290, and 2 *Deux. Conf.*, 937; effective ten years and until one year after denunciation.

1903

France—Great Britain. Signed at London, October 14; ratifications exchanged February 25, 1904; published in *Journal Officiel*, March 10, 1904; text, 96 B. and F. S. P., 35, and *For. Rel.*, 1904, 9; effective five years; renewed at London, October 14, 1908, by exchange of notes, text, 101 B. and F. S. P., 185, and October 14, 1913, *Treaty Series*, 1913, No. 18.

Argentina—Spain. Signed at Buenos Aires, September 17; text, 2 *Deux. Conf.*, 941; effective ten years; negotiated to supersede

Argentina—Spain. Signed January 28, 1902; ratifications exchanged July 18; text, 2 *Deux. Conf.*, 940; effective ten years.

France—Italy. Signed at Paris, December 25; ratifications exchanged March 26, 1904; published in *Journal Officiel*, March 30, 1904; text, T. G. A., 36, and 96 B. and F. S. P., 620; effective five years; renewed December 24, 1908, and December 24, 1913, by exchange of notes at Rome for five years.

Cuba—Italy. Signed at Havana, December 29; treaty of peace, commerce, navigation, emigration and arbitration, Art. XXVII of which is general arbitral clause; ratifications exchanged at Havana, December 2, 1904; text, 96 B. and F. S. P., 370; effective ten years; automatically renewed if not denounced.

1904

Great Britain—Italy. Signed at Rome, February 1; agreement, exchange of ratifications not necessary; text, T. G. A., 38, and 97 B. and F. S. P., 57; effective five years; renewed at London by exchange of notes, January 4, 1909, and January 31, 1914, *Treaty Series*, 1914, No. 4.

Denmark—Netherlands. Signed at Copenhagen, February 12; ratifications exchanged at The Hague, March 8, 1906; ratified by Denmark, February 6, 1906, and by Netherlands, March 8, 1906; text, T. G. A., 43, 98 B. and F. S. P., 454, and *For. Rel.*, 1906, 530; effective till denunciation.

France—Spain. Signed at Paris, February 26; ratifications exchanged at Paris, April 20; published in *Journal Officiel*, May 2, 1904; text, T. G. A., 47, 97 B. and F. S. P., 953, and 98 *ibid.*, 1180; renewed February 26, 1909, N. R. G., VII, 346, and February 26, 1914, by exchange of letters for five years.

Great Britain—Spain. Signed at London, February 27; ratifications exchanged at London, March 16; text, T. G. A., 49, and 97 B. and F. S. P., 80; effective five years; renewed by exchange of notes at London, January 11, 1909, and February 15, 1914; in effect till February 27, 1919; *Treaty Series*, 1914, No. 3.

France—Netherlands. Signed at Paris, April 6; ratifications exchanged at Paris, July 5, 1905; published in *Journal Officiel*, July 12, 1905; text, T. G. A., 53, and 99 B. and F. S. P., 1085; effective five years; renewed December 29, 1909; Netherlands law ratifying renewal, May 23, 1910; French decree approving convention for renewal issued July 26, 1910; ratifications of renewing convention exchanged at Paris, July 5, 1910.

Venezuela. Constitution of April 27, 1904:

ART. 120. In all international treaties a clause shall be inserted to the effect that "all differences between the contracting parties shall be decided by arbitration without appeal to war." [5]

[5] Rodriguez, *American Constitutions*, I, 230.

Portugal—Spain. Signed at Lisbon, May 31; ratifications exchanged at Lisbon, February 27, 1909; approved by Portugal, August 18, 1908; text, T. G. A., 57, N. R. G., 2, 149, *For. Rel.*, 1904, 701, and 101 B. and F. S. P., 549; effective by five-year periods, with denunciation delay of one year.

France—Norway.[6] Signed at Paris, July 9; ratifications exchanged at Paris, November 9; published in *Journal Officiel*, November 16, 1904; text, 97 B. and F. S. P., 971, and T. G. A., 59, 63; effective five years; renewed November 5, 1909, by exchange of notes.

France—Sweden.[6] Signed at Paris, July 9; ratifications exchanged November 9; published in *Journal Officiel*, November 16, 1904; text, 97 B. and F. S. P., 971, and T. G. A., 59, 65; effective five years; renewed by exchange of notes at Paris, November 5, 1909.

Germany—Great Britain. Signed at London, July 12; exchange of ratifications not necessary; effective five years; renewed at London by exchange of notes for a further period of one year, June 7–July 9, 1909, and again for four years, November 23–December 7, 1909; text, 97 B. and F. S. P., 56, and T. G. A., 66; expired July 12, 1914.

Great Britain—Norway.[6] Signed at London, August 11; ratifications exchanged at London, November 9; ratified by Norway by virtue of decree, October 21, 1904; text, 97 B. and F. S. P., 91, and T. G. A., 70, 76; effective five years; renewed by convention at London for a further period of five years, November 9, 1909, and November 9, 1914; in effect till November 9, 1919, *Treaty Series*, 1914, No. 14.

Great Britain—Sweden.[6] Signed at London, August 11; ratifications exchanged at London, November 9; text, 97 B. and F. S. P., 91, and T. G. A., 70, 78; effective five years; renewed by convention at London for a further period of five years, November 9, 1909 (*Treaty Series*, 1909, No. 27), and November 9, 1914; in effect till November 9, 1919, *Treaty Series*, 1914, No. 13.

Netherlands—Portugal. Signed at The Hague, October 1; ratifica-

[6] These treaties were concluded with the King of Sweden and Norway before the separation of those two states, June, 1905. They remain in force as between the one party and each of the two states originally jointly contractant and are therefore listed now as separate treaties. A note of the Norwegian minister of December 7, 1905 (*For. Rel.*, 1905, 873; *Treaties, Conventions, etc.*, 1300), says: "The Norwegian Government is of the opinion that all the conventions and international agreements concluded by Norway with one or several other states, either jointly with Sweden, or separately, or as an adhering party, continue in full force and effect, as heretofore, between Norway and the other contracting party or parties without any change in their provisions being effected by the dissolution of the union." *Cf.* 98 B. and F. S. P., 833 ff.

tions exchanged at The Hague, October 29, 1908; ratified by law of Netherlands, February 5, 1906; proclaimed by Netherlands, December 21, 1908; text, 101 B. and F. S. P., 500, and T. G. A., 81; effective for an indeterminate period.

Nicaragua—Spain. Signed at Guatemala City, October 4; ratifications exchanged at Paris, March 19, 1908; proclaimed in *Gaceta de Madrid*, April 17, 1908; text, 98 B. and F. S. P., 896, and N. R. G., 5, 676; effective twelve years.

Belgium—Russia. Signed at St. Petersburg, October (17) 30; ratifications exchanged at St. Petersburg, (August 27) September 9, 1905; promulgated by Belgium, January 19, 1906; text, 97 B. and F. S. P., 569, T. G. A., 84, and *For. Rel.*, 1905, 78; effective till six months after denunciation.

Belgium—Switzerland. Signed at Bern, November 15; ratifications exchanged at Bern, August 19, 1905; promulgated by Belgium, January 19, 1906; text, 97 B. and F. S. P., 591, *For. Rel.*, 1905, 80, and T. G. A., 94; effective till six months after denunciation.

Great Britain—Portugal. Signed at Windsor Castle, November 16; exchange of ratifications not necessary; approved by Portuguese Chamber, August 18, 1908; text, 97 B. and F. S. P., 68, and T. G. A., 106; effective five years; renewed at London by exchange of notes for a further period of five years, November 16, 1909, and November 16, 1914; in effect till November 16, 1919, *Treaty Series*, 1914, No. 15.

Great Britain—Switzerland. Signed at London, November 16; ratifications exchanged at London, July 12, 1905; text, 97 B. and F. S. P., 93, and T. G. A., 101; effective five years; renewed by exchange of notes for a further period of five years, November 3–12, 1909.

Italy—Switzerland. Signed at Rome, November 23; ratifications exchanged December 5, 1905; text, 98 B. and F. S. P., 513, and T. G. A., 111; effective five years; renewed at Rome by exchange of notes for a further period of five years, November 16, 1909.

Belgium—Norway. Signed at Brussels, November 30; ratifications exchanged at Brussels, August 11, 1905;[7] promulgated by Belgium, January 19, 1906; text, 97 B. and F. S. P., 573, *For. Rel.*, 1905, 81, and T. G. A., 114; effective ten years, denunciable on one year's notice.

Belgium—Sweden. Signed at Brussels, November 30; ratifications exchanged at Brussels, August 11, 1905; promulgated by Belgium, January 19, 1906; text, 97 B. and F. S. P., 573, *For. Rel.*, 1905, 81, and T. G. A., 114; effective ten years, denunciable on one year's notice.

[7] October 30, 1906, according to *Recueil des traités de la Norvège*, 139.

Norway—Russia.[8] Signed at St. Petersburg, (November 26) December 9; ratifications exchanged February (12) 25–February (14) 27, 1905; text, 101 B. and F. S. P., 582, and T. G. A., 123; effective ten years, denunciable on one year's notice.

Russia[8]—Sweden. Signed at St. Petersburg, (November 26) December 9; ratifications exchanged February (12) 25–February (14) 27, 1905; text, 101 B. and F. S. P., 582, and T. G. A., 123; effective ten years, denunciable on one year's notice.

Austria-Hungary—Switzerland. Signed at Bern, December 3; see 1913.

France—Switzerland. Signed at Bern, December 14; ratifications exchanged at Paris, July 13, 1905; published in *Journal Officiel*, July 21, 1905; text, 98 B. and F. S. P., 464, and T. G. A., 133; effective five years; renewed for two years by exchange of notes at Paris, July 13, 1910; text, N. R. G., 4, 87, 103 B. and F. S. P., 543; renewed for five years, June 19, 1912, text, A. D., 124, 90.

Sweden—Switzerland. Signed at Berlin, December 17; ratifications exchanged at Berlin, July 13, 1905; text, 98 B. and F. S. P., 791, and T. G. A., 136; effective ten years, denunciable on one year's notice.

Norway—Switzerland. Signed at Berlin, December 17; ratifications exchanged at Berlin, July 13, 1905; text, 98 B. and F. S. P., 791, and T. G. A., 136; effective ten years, denunciable on one year's notice.

1905

Austria-Hungary—Great Britain. Signed at London, January 11; text, N. R. G., 6, 377; see 1910.

Belgium—Spain. Signed at Madrid, January 23; ratifications exchanged December 16; ratified by Spain, July 28, and promulgated January 19, 1906; text, 98 B. and F. S. P., 405, *For. Rel.*, 1905, 83, *Recueil des lois fédérales*, 1912, No. 16, and T. G. A., 144; effective ten years, denunciable on one year's notice.

Norway[6]—Spain. Signed at Madrid, January 23; ratifications exchanged at Madrid, March 20; ratified for Norway by virtue of decree, February 13; text, N. R. G., 1, 287, and 2, 223, 103 B. and F. S. P., 1002, and T. G. A., 150; effective ten years, denunciable on one year's notice.

Spain—Sweden.[6] Signed at Madrid, January 23; ratifications exchanged at Madrid, March 20; text, N. R. G., 1, 287, and 2, 223, 103 B. and F. S. P., 1002, and T. G. A., 150; effective ten years, denunciable on one year's notice.

[8] Russia made a reservation as to application to the treaties of commerce, *Recueil des Traités de la Norvège*, 562.

Great Britain—Netherlands. Signed at London, February 15; ratifications exchanged at London, July 12; ratified by Netherlands, June 7; text, 98 B. and F. S. P., 59, T. G. A., 160, *For. Rel.*, 1905, 693, and 5 Supp., A. J. I. L., 125; effective five years; renewed by convention of December 16, 1909; ratifications of renewing convention exchanged at London, July 11, 1910; Netherlands law ratifying renewing convention passed May 23, 1910.

Denmark—Russia. Signed at St. Petersburg, (February 16) March 1; ratifications exchanged at St. Petersburg, April (11) 24; ratified at Copenhagen by the Danish Riksdag, March 29, and at St. Petersburg, (March 20) April 3; text, *For. Rel.*, 1905, 292, 98 B. and F. S. P., 846, and T. G. A., 164; effective ten years, denunciable on one year's notice.

Honduras—Spain. Signed at Madrid, May 13; ratifications exchanged at Madrid, July 16, 1906; published in *La Gaceta Oficial*, August 21, 1906, *For. Rel.*, 1906, 1353, and T. G. A., 183; effective twelve years, denunciable on one year's notice.

Italy—Peru. Signed at Lima, April 18; ratifications exchanged at Lima, November 11, 1905; ratified by Peru, November 11, 1905; text, Aranda, IX, 933, 101 B. and F. S. P., 374, and T. G. A., II, 1; effective by ten-year periods.

Belgium—Greece. Signed at Athens, (April 19) May 2; ratifications exchanged July (9) 22, 1905; ratified by Belgium, May 2; promulgated, January 19, 1906; text, 98 B. and F. S. P., 407, *For. Rel.*, 1905, 86, and T. G. A., 171; effective five years, denunciable on six months' notice.

Belgium—Denmark. Signed at Brussels, April 26; ratifications exchanged at Brussels, May 2, 1906; promulgated by Belgium, January 19, 1906; text, 98 B. and F. S. P., 685, *For. Rel.*, 1905, 84, and T. G. A., 175; effective ten years, denunciable on one year's notice.

Portugal—Sweden.[9] Signed at Lisbon, May 6; ratifications exchanged at Stockholm, October 23, 1908; approved by Portugal, August 18, 1908; text, 101 B. and F. S. P., 553, N. R. G., 2, 235, T. G. A., 185; effective five years.

Italy—Portugal. Signed at Lisbon, May 11; promulgated by Italian decree of July 2, 1905; text, 98 B. and F. S. P., 664; effective five years; renewed by exchange of notes, April 21–May 31, 1910; text, 124 A. D., 94, N. R. G., 6, 61, *Gazzetta ufficiale*, 1910, No. 195, T. G. A., 189.

Belgium—Rumania. Signed at Bukharest, May (14) 27; ratifications exchanged at Bukharest, (September 26) October 9, 1905; proclaimed, January 19, 1906; text, 98 B. and F. S. P., 409, N. R. G., 2, 236, and T. G. A., 191; effective ten years, denunciable on one year's notice.

[9] This treaty also signed with Norway, which effected a separate convention with Portugal in 1908.

Colombia—Ecuador. Signed at Quito, August 10; ratifications exchanged at Quito, October 24, 1907; general treaty of friendship, commerce and navigation, extradition, arbitration (Art. III), contraband of war, slave trade, consuls, etc.; text, 99 B. and F. S. P., 1012, and N. R. G., II, 265, and V, 856; perpetual by Art. XXVII in respect to Art. III.

Portugal—Switzerland. Signed at Bern, August 18; ratifications exchanged at Bern, October 23, 1908; approved by Portuguese Chamber, August 18, 1908; text, N. R. G., 2, 273, 101 B. and F. S. P., 554, and T. G. A., 195; effective five years; renewed at Bern, June 19, 1913, for ten years from October 23, 1913.

Argentina—Brazil. Signed at Rio de Janeiro, September 7; ratifications exchanged at Buenos Aires, November 9, 1908; approved by Argentina, December 2, and by Brazil, October 1, 1908; ratified by Brazil, December 5, 1908; formally promulgated by Argentina, December 24, 1908, and by Brazil, January 7, 1909; permanently signed at Rio de Janeiro, June 19, 1909; text, N. R. G., 2, 274, 100 B. and F. S. P., 605, and *For. Rel.*, 1908, 51; effective ten years.

Colombia—Peru. Signed at Bogotá, September 12; ratifications exchanged July 6, 1906; text, *For. Rel.*, 1905, 256; effective by ten-year periods.

Denmark—Great Britain. Signed at London, October 25; ratifications exchanged at London, May 4, 1906; text, 98 B. and F. S. P., 44, and T. G. A., 201; effective five years; renewed by convention of March 3, 1911; ratifications exchanged at London, May 3, 1911; *Treaty Series* (1911), No. 10, and N. R. G., 4, 735.

Norway—Sweden. Signed at Stockholm, October 26; ratified by *procès-verbal* of October 26; text, 98 B. and F. S. P., 820, and T. G. A., 207; effective by ten-year periods.

Denmark—Spain. Signed at Madrid, December 1; ratifications exchanged at Madrid, May 19, 1906; ratified by Denmark, May 10, and by Spain, May 14; text, 99 B. and F. S. P., 1037, T. G. A., 212; effective ten years, denunciable on one year's notice.

Denmark—Italy. Signed at Rome, December 16; ratifications exchanged at Rome, May 22, 1906; proclaimed by King of Italy, May 27, 1906; text, T. G. A., 218, 99 B. and F. S. P., 1035, and *For. Rel.*, 1906, 528; effective until denunciation, on one year's notice.

1906

Austria-Hungary—Portugal. Signed at Vienna, February 13; approved August 18, 1908, by the Portuguese Chamber, and by Austria-Hungary at Vienna, October 16, 1908; text, N. R. G., 8, 148, and T. G. A., 221; effective five years.

Belgium—Nicaragua. Signed at Guatemala City, March 6; ratifications exchanged at Guatemala City, July 20, 1909; text, *Moniteur belge*, September 2, 1909, 99 B. and F. S. P., 869, N. R. G., 2, 753, and T. G. A., 224; effective ten years, denunciable on one year's notice.

France—Portugal. Signed at Paris, June 29; ratifications exchanged at Paris, April 5, 1909; approved by Portugal, August 18, 1908; published in *Journal Officiel*, April 9, 1909; text, T. G. A., 228, and 100 B. and F. S. P., 921; proclaimed by France, April 7, 1909; effective five years.

1907

Denmark—Portugal. Signed at Copenhagen, March 20; ratifications exchanged at Copenhagen, October 26, 1908; approved by Portuguese Chamber, August 18, 1908, text, N. R. G., 2, 304, 101 B. and F. S. P., 287, and T. G. A., 231; effective ten years, denunciable on six months' notice.

Argentina—Italy. Signed during the Peace Conference at The Hague, September 18; ratifications exchanged at Rome, May 21, 1910; promulgated by Italian decree of August 9, 1910; text, 5 Supp., A. J. I. L., 171, N. R. G., 4, 84, 1 *Deux. Conf.*, 162 and 174, 101 B. F. S. P., 239, and T. G. A., II, 5; effective by ten-year periods.

Italy—Mexico. Signed at The Hague, October 16, during Peace Conference; ratifications exchanged at Rome, March 7, 1908; text, 101 B. and F. S. P., 372, and T. G. A., II, 8; effective by ten-year periods.

Costa Rica—Guatemala—Honduras—Nicaragua—Salvador. Signed at Washington, December 20; general treaty of peace and amity, Art. I of which is general arbitral clause without reserve, and convention for the establishment of a Central American Court of Justice; ratifications exchanged through Costa Rica, March 20, 1908; text, *Treaties, Conventions, etc.*, II, 2393 and 2399; effective ten years and until one year after notice of intention to terminate.

1908

United States—France.[10] Signed at Washington, February 10; ratifications exchanged at Washington, March 12; effective five years; extended by agreement signed at Washington, February 13, 1913; ratification advised by the Senate, February 19, 1913; ratified by the President, February 25, 1913; ratified by France, February 28, 1913; ratifications exchanged at Washington, March 14, 1913; proclaimed, March 15, 1913; text, *Treaties, Conventions, etc.*, III, 38; renders convention effective until February 27, 1918.

[10] The treaties negotiated by the United States in 1908 and 1909 are identic, and, unless otherwise indicated, may be found textually in *Treaties, Conventions, etc.*, 1776–1909.

Dominican Republic. Constitution of February 22, 1908:

ART. 102. The powers established by this constitution shall not declare war until after having proposed arbitration.

§ In order to reaffirm this principle, the following clause shall be introduced into all international treaties which the Republic makes:

"All differences which may arise between the contracting parties shall be submitted to arbitration before appealing to arms." [11]

United States—Switzerland. Signed at Washington, February 29; ratifications exchanged at Washington, December 23; effective five years; extended by agreement signed at Washington, November 3, 1913; ratification advised by the Senate, February 21, 1914; ratified by the President, March 23, 1914; ratified by Switzerland, March 10, 1914; ratifications exchanged at Washington, April 27, 1914; proclaimed, April 28, 1914; text, *Treaty Series*, No. 590; renders convention effective until December 23, 1918.

United States—Mexico. Signed at Washington, March 24; ratifications exchanged at Washington, June 27; ratification advised by United States Senate, April 2; ratified by President of the United States, May 29; ratified by Mexico, May 30; proclaimed by President of the United States, June 29; effective five years; expired June 27, 1913.

Honduras—Mexico. Signed at Mexico City, March 24; treaty of arbitration, friendship, commerce and navigation, Art. I of which is general arbitral clause; ratifications exchanged at Mexico City, September 30, 1910; text, 102 B. and F. S. P., 655; effective until one year after notice to terminate.

United States—Italy. Signed at Washington, March 28; ratifications exchanged at Washington, January 22, 1909; effective five years; extended by agreement signed at Washington, May 28, 1913; ratification advised by the Senate, February 21, 1914; ratified by the President, April 13, 1914; ratified by Italy, March 12, 1914; ratifications exchanged at Washington, April 13, 1914; proclaimed, April 15, 1914; text, *Treaty Series*, No. 588; renders convention effective until January 22, 1919.

United States—Great Britain. Signed at Washington, April 4; ratifications exchanged at Washington, June 4; effective five years; extended by agreement signed at Washington, May 31, 1913; ratification advised by the Senate, February 21, 1914; ratified by the President, March 27, 1914; ratified by Great Britain, March 11, 1914; ratifications exchanged at Washington, April 10, 1914; proclaimed, April 10, 1914; text, *Treaty Series*, No. 587, and *Treaty Series*, 1914, No. 6; renders convention effective until June 4, 1918.

[11] *For. Rel.*, 1908, 260. The constitution of June 14, 1907, contained a like provision in Art. 98, *For. Rel.*, 1907, 363.

United States—Norway. Signed at Washington, April 4; ratifications exchanged at Washington, June 24; effective five years; extended by agreement signed at Washington, June 16, 1913; ratification advised by the Senate, February 21, 1914; ratified by the President, April 9, 1914; ratified by Norway, March 13, 1914; ratifications exchanged at Washington, April 13, 1914; proclaimed, April 15, 1914; text, *Treaty Series*, No. 589; renders convention effective until June 24, 1918.

United States—Portugal. Signed at Washington, April 6; ratifications exchanged at Washington, November 14; effective five years; extended by agreement signed at Washington, June 28, 1913; ratification advised by the Senate, February 21, 1914; ratified by the President, April 14, 1914; ratified by Portugal, September 26, 1914; ratifications exchanged at Washington, October 24, 1914; proclaimed, October 29, 1914; text, *Treaty Series*, No. 601; renders convention effective until November 14, 1918.

United States—Spain. Signed at Washington, April 20; ratifications exchanged at Washington, June 2; effective five years; extended by agreement signed at Washington, May 29, 1913; ratification advised by the Senate, February 21, 1914; ratified by the President, March 9, 1914; ratified by Spain, March 2, 1914; ratifications exchanged at Washington, March 21, 1914; proclaimed, March 23, 1914; text, *Treaty Series*, No. 586; renders convention effective until June 2, 1918.

United States—Netherlands. Signed at Washington, May 2; ratifications exchanged at Washington, March 25, 1909; effective five years; extended by agreement signed at Washington, May 9, 1914; ratification advised by the Senate, May 20, 1914.

United States—Sweden. Signed at Washington, May 2; ratifications exchanged at Washington, August 18; effective five years; extended by agreement signed at Washington, June 28, 1913; ratification advised by the Senate, February 21, 1914; ratified by the President, March 2, 1914; ratified by Sweden, August 29, 1913; ratifications exchanged at Washington, March 6, 1914; proclaimed, March 6, 1914; text, *Treaty Series*, No. 585; renders convention effective until August 18, 1918.

United States—Japan. Signed at Washington, May 5; ratifications exchanged at Washington, August 24; effective five years; extended by agreement signed at Washington, June 28, 1913; ratification advised by the Senate, February 21, 1914; ratified by the President, March 21, 1914; ratified by Japan, May 19, 1914; ratifications exchanged at Tokyo, May 23, 1914; proclaimed, May 26, 1914; text, *Treaty Series*, No. 591; renders convention effective until August 24, 1918.

United States—Denmark. Signed at Washington, May 18; ratifications exchanged at Washington, March 29, 1909; ratification advised by United

States Senate, May 20, and approved by Danish Parliament, February 6, 1909; ratified by President of the United States, January 8, 1909, and by Denmark, February 15, 1909; proclaimed by President of the United States, March 29, 1909; effective five years.

Denmark—Sweden. Signed at Stockholm, July 17; ratifications exchanged at Stockholm, February 26, 1909; approved by Danish Parliament, February 6, 1909; text, N. R. G., 2, 755, 102 B. and F. S. P., 914, T. G. A., 287; effective ten years.

United States—China. Signed at Washington, October 8; ratifications exchanged at Washington, April 6, 1909; ratification advised by United States Senate, December 10; ratified by President of the United States, March 1, 1909, and by China, February 12, 1909; proclaimed by President of the United States, April 6, 1909; effective five years.

Denmark—Norway. Signed at Copenhagen, October 8; ratifications exchanged at Copenhagen, March 6, 1909; approved by Danish Parliament, February 6, 1909; text, N. R. G., 2, 758, 101 B. and F. S. P., 963, and T. G. A., 293; effective ten years.

United States—Peru. Signed at Washington, December 5; ratifications exchanged at Washington, June 29, 1909; ratification advised by United States Senate, December 10; ratified by President of the United States, March 1, 1909, and by Peru, May 1, 1909; proclaimed by President of the United States, June 30, 1909; effective five years, then denunciable on one year's notice.

Norway—Portugal. Signed at Lisbon, December 8; ratifications exchanged at Lisbon, November 3, 1909; text, N. R. G., 3, 208, T. G. A., 311, and 102 B. and F. S. P., 728; effective five years, then denunciable on one year's notice.

Colombia—France. Signed at Bogotá, December 16; ratifications exchanged at Bogotá, October 6, 1909; ratified by France, March 10, 1909; promulgated by French decree of December 31, 1909, in *Journal Officiel*, January 6, 1910; effective for five years; text, T. G. A., 316, 101 B. and F. S. P., 954, N. R. G., 3e série, V, 681, and A. D., 123, 15; additional convention signed at Bogotá, August 5, 1910; ratifications exchanged at Paris, November 15, 1911; text, 103 B. and F. S. P., 400, T. G. A., II, 24; effective as main convention.

United States—Salvador. Signed at Washington, December 21; ratifications exchanged at Washington, July 3, 1909; effective five years; extended by agreement signed at Washington, May 13, 1914; ratification advised by the Senate, May 20, 1914; ratified by the President, June 2, 1914; ratified by Salvador, July 6, 1914; ratifications exchanged at Washington, August 21, 1914; proclaimed, August 21, 1914; text, *Treaty Series*, No. 596; renders convention effective until July 3, 1919.

United States—Argentina. Signed at Washington, December 23; ratified by United States, March 1, 1909; ratification advised by United States Senate, January 6, 1909; effective five years.

Colombia—Great Britain. Signed at Bogotá, December 30; exchange of ratifications not necessary; ratified by Colombia, July 14, 1909; text, *Treaty Series* (1909), No. 5, 101 B. and F. S. P., 175, A. D., 124, 49, N. R. G., 6, 14, and T. G. A., 321; effective five years.

1909

United States—Bolivia. Signed at Washington, January 7; ratification advised by United States Senate, January 13; ratified by President of the United States, March 1; effective five years.

United States—Ecuador. Signed at Washington, January 7; ratifications exchanged at Washington, June 22, 1910; ratification advised by United States Senate, January 13; ratified by President of the United States, March 1; approved by Ecuadorian Congress, October 21, and ratified by President, November 5; proclaimed, June 23, 1910; text, *Treaties, Conventions, etc.*, 3, 31, and T. G. A., 329; effective five years, then denunciable on one year's notice.

United States—Haiti. Signed at Washington, January 7; ratifications exchanged at Washington, November 15; ratification advised by United States Senate, February 13; ratified by President of the United States, March 1, and by Haitian President, March 22; approved by Haitian Congress, July 23; proclaimed by President of the United States, November 16; effective five years, then denunciable on one year's notice.

United States—Uruguay. Signed at Washington, January 9; ratifications exchanged at Washington, November 14, 1913; ratification advised by United States Senate, January 13, 1909; ratified by President of the United States, March 1, 1909; ratified by Uruguay, June 27, 1913; proclaimed, November 15, 1913; text, *Treaty Series*, No. 583, and N. R. G., VIII, 151; effective five years, then denunciable on one year's notice.

United States—Costa Rica. Signed at Washington, January 13; ratifications exchanged at Washington, July 20; effective five years; extended by agreement signed at Washington, March 16, 1914; ratification advised by the Senate, March 25, 1914; ratified by the President, April 23, 1914; ratified by Costa Rica, July 25, 1914; ratifications exchanged at Washington, November 21, 1914; proclaimed, November 13, 1914; text, *Treaty Series*, No. 604; renders convention effective until July 20, 1919.

United States—Chile. Signed at Washington, January 13; ratification advised by United States Senate, January 20; ratified by President of the United States, March 1; effective five years.

United States—Austria-Hungary. Signed at Washington, January 15; ratifications exchanged at Washington, May 13; effective five years; extended by agreement signed at Washington, May 6, 1914; ratification advised by the Senate, May 20, 1914; ratified by the President, May 27, 1914; ratified by Austria-Hungary, May 13, 1914; ratifications exchanged at Washington, May 28, 1914; proclaimed, May 28, 1914; text, *Treaty Series*, No. 592; renders convention effective until May 28, 1919.

United States—Brazil. Signed at Washington, January 23; ratifications exchanged at Washington, July 26, 1911; ratified by President of the United States, March 1; ratification advised by United States Senate, January 27; approved by Brazil, December 31, 1910; ratified by Brazil, January 2, 1911; proclaimed by United States, August 2, 1911; text, *Treaties, Conventions, etc.*, 3, 21; effective by five-year periods.

United States—Paraguay. Signed at Asunción, March 13; ratifications exchanged at Asunción, October 2; effective five years; extended by agreement signed at Washington, ,1914; ratification advised by the Senate, March 14, 1914.

Brazil—Portugal. Signed at Petropolis, March 25; ratifications exchanged ; approved by Brazil, December 31, 1910; text, T. G. A., 347; effective by five-year periods.

Brazil—France. Signed at Petropolis, April 7; ratifications exchanged at Petropolis, June 27, 1911; approved by Brazil, December 31, 1910; promulgated by French President, July 31, 1911; text, *Journal Officiel*, August 3, 1911, T. G. A., II, 11, A. D., 124, 45, N. R. G., 5, 10; effective by five-year periods.

Brazil—Spain. Signed at Petropolis, April 8; ratifications exchanged at Rio de Janeiro, June 29, 1911; approved by Brazil, December 31, 1910; text, *La Gaceta* of Madrid, July 27, 1911, 102 B. and F. S. P., 188, and N. R. G., 5, 11; effective by five-year periods.

Brazil—Mexico. Signed at Petropolis, April 11; ratifications exchanged at Mexico City, December 26, 1911; approved by Brazil, December 31, 1910; text, *Diario oficial do Brazil*, 1912, 8127, N. R. G., 6, 347, and 102 B. and F. S. P., 187; effective by five-year periods.

Brazil—Honduras. Signed at Guatemala City, April 26; approved by Honduras, July 30, and by Brazil, December 31, 1910; terms in *La Gaceta*, Guatemala, August 19.

Brazil—Venezuela. Signed at Caracas, April 30; ratifications exchanged at Caracas, January 8, 1912; approved by Venezuelan Congress, July 28, 1909, and by Brazil, December 31, 1910; text, *Gaceta oficial* of Caracas, 1909, No. 10, 685, N. R. G., 6, 20, T. G. A., II, 13, and 102 B. and F. S. P., 190; effective five years and from year to year.

Brazil—Panama. Signed at Washington, May 1; approved by Brazil, December 21, 1910; ratified by Panama, January 12, 1915; promulgated by Panama, January 15, 1915.

Brazil—Ecuador. Signed at Washington, May 13; ratifications exchanged at Quito, February 12, 1912; approved by Brazil, December 31, 1910; ratified by Ecuador, February 12, 1912; text, N. R. G., VI, 353, and 103 B. and F. S. P., 386; effective by five-year periods.

Brazil—Costa Rica. Signed at Washington, May 18; ratifications exchanged at Washington, August 10, 1911; ratified by Costa Rican President, October 20; approved by Costa Rica, October 11, and by Brazil, December 31, 1910; published in *La Gaceta Oficial*, October 24, and *Diario oficial*, 1912, 148; text, 102 B. and F. S. P., 195, and N. R. G., 7, 190; effective by five-year periods.

Brazil—Cuba. Signed at Washington, June 10; ratifications exchanged at Havana, August 2, 1911; approved by Brazil, December 31, 1910; published in *La Gaceta Oficial* of Cuba, August 14, 1911; text, 102 B. and F. S. P., 196, and N. R. G., 5, 13; effective by five-year periods.

Brazil—Great Britain. Signed at Petropolis, June 18; ratifications exchanged at Rio de Janeiro, May 6, 1911; approved by Brazilian Parliament, July 21, and by Brazilian Government, December 31, 1910; promulgated by Brazilian Government, May 10, 1911; text, *Treaty Series*, No. 12 (1911), N. R. G., 5, 16, 102 B. and F. S. P., 72, and T. G. A., 350; effective by five-year periods.

Argentina—Great Britain. Signed at Rio de Janeiro, June 18.[1]

Bolivia—Brazil. Signed at Petropolis, June 25; approved by Bolivia, November 12, 1901, and Brazil, December 31, 1910; promulgated by Bolivia, March 15, 1912; text, T. G. A., 353; effective by ten-year periods.

Brazil—Nicaragua. Signed at Guatemala, June 28; approved by Brazilian Government, December 31, 1910; effective five years.

Brazil—Norway. Signed at Kristiania, July 13; ratifications exchanged at Rio de Janeiro, June 27, 1911; ratified by Norway, February 25, 1911; approved by Brazilian Government, December 31, 1910; published in *Overenskomster med fremmede Stater*, 1911, No. 4; text, N. R. G., 5, 19, A. D., 120, 26, T. G. A., II, 16, and 102 B. and F. S. P., 198; effective by five-year periods.

Nicaragua—Portugal. Signed at Lisbon, July 17; ratifications exchanged at Lisbon, September 19, 1912; published in *Diario do Governo*, 1912, No. 224; text, 102 B. and F. S. P., 737, N. R. G., 6, 643, T. G. A., 357, and A. D., 126, 97; effective five years, and from year to year.

Brazil—China. Signed at Peking, August 3; ratifications exchanged at Paris, December 14, 1911; approved by Brazilian Government, Decem-

ber 31, 1910; text, *Diario oficial do Brazil*, 1912, 8126, and N. R. G., 6, 344, T. G. A., 359, and 103 B. and F. S. P., 385; effective by five-year periods.

Argentina—Portugal. Signed at Lisbon, August 27; ratifications exchanged; text, T. G. A., 368; effective five years, and from year to year.

Brazil—Salvador. Signed at Salvador, September 3; ratifications exchanged at Washington, November 12, 1913; approved by Brazilian Government, December 31, 1910; text, N. R. G., VIII, 341; effective five years.

Italy—Netherlands. Signed at Rome, November 20; ratifications exchanged at Rome, July 22, 1910; proclaimed by Italian order of September 5, 1910; text, T. G. A., 370, and 102 B. and F. S. P., 462; effective by ten-year periods.

Brazil—Peru. Signed at Rio de Janeiro, December 7; ratifications exchanged at Rio de Janeiro, January 13, 1912; approved by Brazilian Government, December 31, 1910; proclaimed by Brazil in *Diario oficial*, 1912, 8130; text, N. R. G., 6, 355, and A. D., 126, 53; effective by ten-year periods.

Brazil—Sweden. Signed December 14; effective ten years.

Greece—Spain. Signed at Athens, December (3) 16; ratifications exchanged at Athens, March (11) 24, 1910; approved by Greek Boule and ratified December 21, 1909; proclaimed by Greece in *Ephemeris*, March 26, 1910; text, N. R. G., 4, 711, 102 B. and F. S. P., 966, and T. G. A., 375; effective April 11 (24), 1910, for five years, then denunciable year by year.

1910

Costa Rica—Italy. Signed at Rome, January 8; ratifications exchanged at Rome, November 3; ratified by Italy, June 14, 1910; proclaimed by Italy, January 12, 1911; text, *Gazzetta ufficiale*, 1911, No. 33, N. R. G., 4, 713, A. D., 121, 42, and T. G. A., II, 19; effective ten years.

Costa Rica—Panama. Signed at Washington, March 17; approved by Costa Rican Congress, August 25; promulgated by Costa Rica, September 25; approved by Congress of Panama, September 27.

Brazil—Haiti. Signed at Washington, April 25; ratifications exchanged November 21, 1912; approved by Brazilian Government, December 31; text, N. R. G., 8, 153; effective by five-year periods.

Brazil—Dominican Republic. Signed at Washington, April 29; ratifications exchanged March 31, 1913; approved by Brazilian Government, December 31; text, N. R. G., 8, 153; effective by five-year periods.

Belgium—Honduras. Signed at , April 29.

Brazil—Colombia. Signed at Bogotá, July 7; approved by Brazilian Government, December 31.

Austria-Hungary—Great Britain. Signed at London, July 16; ratifications exchanged at London, December 2; presented to Parliament, February, 1911; text, *Treaty Series* (1911), No. 1, N. R. G., 4, 726, and 103 B. and F. S. P., 242, T. G. A., 378; effective from June 1, 1910, by five-year periods; presumably to supersede

Austria-Hungary—Great Britain. Signed at London, January 11, 1905; ratifications exchanged at London, May 17; text, 98 B. and F. S. P., 37; effective five years.

Russia—Spain. Signed at St. Petersburg, August (2) 15; ratifications exchanged at St. Petersburg, November (9) 22; text, 5 Supp., A. J. I. L., 217, N. R. G., 6, 646, T. G. A., 384, and 103 B. and F. S. P., 1000; effective ten years, then year by year.

Brazil—Russia. Signed at Rio de Janeiro, August (13) 26; ratifications exchanged at Rio de Janeiro, May 11, 1912; approved by Brazilian Government, December 31, 1910; published in *Diario oficial do Brazil*, 1912, No. 148; text, N. R. G., 6, 349, T. G. A., II, 25, and 103 B. and F. S. P., 974; effective ten years, then year by year.

Brazil—Greece. Signed at , August 28.

Greece—Italy. Signed at , September 2.

Italy—Spain. Signed at San Sebastian, September 2; ratifications exchanged at Madrid, February 17, 1912; ratified by Italy, October 31, 1910; proclaimed in *Gazzetta ufficiale*, 1912, No. 114; text, N. R. G., 6, 62, A. D., 122, 27, T. G. A., II, 30, and 103 B. and F. S. P., 568; effective by ten-year periods.

Argentina—France. Signed at Buenos Aires, September 7; ratifications exchanged at Buenos Aires, July 4, 1914.

Austria-Hungary—Brazil. Signed at Rio de Janeiro, October 19; ratifications exchanged April 5, 1911; approved by Brazilian Government, December 31; text of approving decree, *Diario oficial*, January 24, 1911; text, T. G. A., II, 32, and N. R. G., VIII, 159; effective by five-year periods.

Italy—Russia. Signed at St. Petersburg, October (14) 27; ratifications exchanged at St. Petersburg, January (12) 25, 1911; ratified by Italy, December 24, 1910; in force February (12) 25, 1911; proclaimed in *Gazzetta ufficiale*, 1912, No. 114; text, N. R. G., 6, 64, T. G. A., II, 34, and 103 B. and F. S. P., 566; effective ten years, then year by year.

Belgium—Italy. Signed at Brussels, November 18; ratifications ex-

changed at Brussels, August 14, 1911; approved by Belgian Chamber, May 1, 1911; ratified by Belgian Chamber, May 4, 1911; ratified by Italy, June 8, 1911; Belgian law approving promulgated June 4, 1911; proclaimed in *Moniteur belge*, September 2, 1911; text, N. R. G., 5, 20, T. G. A., II, 36, and 103 B. and F. S. P., 376; effective ten years, then year by year.

Italy—Norway. Signed at Rome, December 4; ratifications exchanged at Rome, December 22, 1910; proclaimed in *Gazzetta ufficiale* 1911, No. 46; text, N. R. G., 4, 728, T. G. A., 390, and 103 B. and F. S. P., 565; effective until denunciation.

1911

Brazil—Uruguay. Signed at Petropolis, January 12; promulgated by Brazil; effective ten years.

Brazil—Paraguay. Signed at , February 24.

Ecuador—Italy. Signed at Quito, February 25; promulgated by Ecuador, November 18, 1913; text, T. G. A., II, 42; effective by ten-year periods.

Italy—Sweden. Signed at Stockholm, April 13; ratifications exchanged at Stockholm, September 26; text, N. R. G., 5, 359, A. D., 121, 55, and T. G. A., II, 47; effective by ten-year periods from signature.

Italy—Paraguay. Signed at Asunción, May 11; ratifications exchanged August 2, 1914; text, T. G. A., II, 52; effective by five-year periods.

Bolivia—Italy. Signed at La Paz, May 17; ratifications exchanged at Rome, May 16, 1912; proclaimed in *Gazzetta ufficiale*, 1912, No. 584; text, T. G. A., II, 55, A. D., 124, 35, N. R. G., 6, 371; effective by ten-year periods.

Argentina—Ecuador. Signed at Caracas, July 16 (*circa*).

Argentina—Venezuela. Signed at Caracas, July 24.

United States—France.[12] Signed at Washington, August 3; ratification advised by United States Senate (after revision), March 7, 1912 (legislative day of March 5); the President did not ratify; text, 5 Supp., A. J. I. L., 249, and *Treaties, Conventions, etc.*, 3, 380.

United States—Great Britain.[12] Signed at Washington, August 3; ratification advised by United States Senate (after revision), March 7, 1912 (legislative day of March 5); the President did not ratify; text, 5 Supp., A. J. I. L., 253, and *Treaties, Conventions, etc.*, 3, 385.

[12] These two treaties were never ratified by the President. They were intended to serve as models, and Mr. Taft has since explained that the amendments, relating to specific American questions, would have deprived them of their purpose as such. The amendments were imposed by the Senate, it may be said, despite the contention of the President and Secretary of State that they served not at all to restrict the operation of the treaties, if properly understood.

Denmark—France. Signed at Copenhagen, August 9; ratifications exchanged at Copenhagen, December 21; promulgated by France, December 27; published in *Journal Officiel*, December 30; text, A. D., 122, 12, and N. R. G., 5, 682, T. G. A., II, 60; effective by five-year periods, superseding

> **Denmark—France.** Signed at Copenhagen, September 15, 1905; ratifications exchanged at Copenhagen, May 31, 1906; ratified by Denmark, May 31, 1906; published in *Journal Officiel*, June 30, 1906; text, T. G. A., 198, and 98 B. and F. S. P., 845; effective five years; continued from May 31, 1911, till January 1, 1912, by exchange of notes of May 27, 1911 (cf. *Journal Officiel*, June 4, 1911).

Portugal. Constitution of August 21, 1911:

ART. 26. It belongs exclusively to the Congress of the Republic:

14. To authorize the Executive Power to make war, if he has not been able to have recourse to arbitration, or if this recourse should be rejected, except in the case of imminent or effective aggression by foreign forces, as well as to make peace. . . .

ART. 73. The Portuguese Republic, without prejudice to the stipulations contained in its treaties of alliance, recognizes the principle of arbitration as the best method of resolving international questions.

Brazil—Italy. Signed at Rio de Janeiro, September 22; ratifications exchanged July 28, 1913; text, T. G. A., II, 67; effective ten years, then year by year.

Brazil—Denmark. Signed at Copenhagen, November 27; ratifications exchanged; text, *Annuaire de l'Union interparliamentaire*, 1912, 146, T. G. A., II, 71; effective ten years, then denunciable on six months' notice.

1912

Argentina—Colombia. Signed at Washington, January 20.

Peru—Venezuela. Signed at , February 25; ratifications exchanged, July 9, 1914.

Panama—Spain. Signed at Panama, July 25; ratifications exchanged at Panama, May 3, 1913; proclaimed by Spain, June 1, 1913; published in *Gaceta de Madrid*, June 1, 1913; text, N. R. G., VII, 347, and T. G. A., II, 74; effective by five-year periods.

1913

Spain—Switzerland. Signed at Bern, June 19; ratifications exchanged at Bern, March 14, 1914; ratified by Switzerland, February 14, 1914, and by Spain, March 2, 1914; text, T. G. A., II, 76; effective ten years from April 14, 1914, and, if not denounced six months in advance, for five years additional; replacing

Spain—Switzerland. Signed at Bern, May 14, 1907; ratifications exchanged July 9; text, *For. Rel.*, 1907, 101 B. and F. S. P., 615, T. G. A., 234; effective five years.

France—Uruguay. Signed at Montevideo, August

Chile—Italy. Signed at Santiago, August 8; ratifications exchanged March 26, 1914; text, T. G. A., II, 79; effective ten years.

Austria-Hungary—Switzerland. Signed at Vienna, September 2; ratifications exchanged June 12, 1914; ratified by Switzerland, February 4, 1914, and by Austria-Hungary, May 23, 1914; text, T. G. A., II, 82; effective by five-year periods, from June 26, 1914. (Succeeds treaty of December 3, 1904.)

Honduras—Italy. Signed at Guatemala City, December 26; approved by President of Honduras, December 26, 1913; ratified by Honduras, January 29, 1914.

1914

Costa Rica—Portugal. Signed at San José, May 27; approved by Congress of Costa Rica.

Panama—Portugal. Signed at , June 30; approved by Panaman Congress.

CHRONOLOGICAL SUMMARY.

BIPARTITE TREATIES AND CONSTITUTIONS.

1828	1	1902	10
1829	1	1903	4
1842	1	1904 (Constitution)	27
1848	1	1905	21
1856	1	1906	3
1863	1	1907	3
1868	6	1908 (Constitution)	23
1869	1	1909	32
1870	1	1910	17
1873	1	1911 (Constitution)	14
1874	2	1912	3
1876	1	1913	5
1878	1	1914	2
1882	1		208
1883	4		
1884	1		
1887	1		
1888	2		
1890	2		
1891 (Constitution)	1		
1893	1		
1894	3		
1895	4		
1897	1		
1899	3		
1901	1		

1 sextuple treaty (Pan American, 1902) in equivalents of bipartite treaties	15
1 quintuple treaty (Central American, 1907) in equivalents of bipartite treaties	10
Total	233
Superseded or failed	4
Net total in force or expected to come into force	229

SUMMARY BY COUNTRIES.

(Prepared by Miss Beulah Cord.)

Argentine Republic (19)—Bolivia (1868 and 1902), Brazil (1828 and 1905), Chile (1902), Colombia (1912), Ecuador (1911), France (1910), Great Britain (1909), Italy (1907), Paraguay (1876 and 1899), Peru (1874), Portugal (1909), Spain (1902 and 1903), United States (1908), Uruguay (1899), Venezuela (1911).

Austria-Hungary (8)—Brazil (1910), Great Britain (1905 and 1910), Portugal (1906), Siam (1869), Switzerland (1904 and 1913), United States (1909).

Belgium (14)—Denmark (1905), Ecuador (1887), Greece (1905), Honduras (1909), Italy (1910), Nicaragua (1906), Norway (1904), Rumania (1905), Russia (1904), Siam (1868), Spain (1905), Sweden (1904), Switzerland (1904), Venezuela (1884).

Bolivia (9)—Argentina (1868 and 1902), Brazil (1909), Italy (1911), Peru (1863, 1873 and 1901), Spain (1902), United States (1909).

Brazil (33)—Constitution (1891), Argentina (1828 and 1905), Austria-Hungary (1910), Bolivia (1909), Chile (1899), China (1909), Colombia (1910), Costa Rica (1909), Cuba (1909), Denmark (1911), Dominican Republic (1910), Ecuador (1909), France (1909), Great Britain (1909), Greece (1910), Haiti (1910), Honduras (1909), Italy (1911), Mexico (1909), Nicaragua (1909), Norway (1909), Panama (1909), Paraguay (1911), Peru (1909), Portugal (1909), Russia (1910), Salvador (1909), Spain (1909), Sweden (1909), United States (1909), Uruguay (1911), Venezuela (1909).

Chile (4)—Argentina (1902), Brazil (1899), Italy (1913), United States (1909).

China (2)—Brazil (1909), United States (1908).

Colombia (12)—Argentina (1912), Brazil (1910), Ecuador (1856 and 1905), France (1908), Great Britain (1908), Peru (1829, 1870 and 1905), Spain (1894 and 1902), Venezuela (1842).

Costa Rica (13)—Brazil (1909), Guatemala (1895 and 1907), Honduras (1895 and 1907), Italy (1910), Nicaragua (1868 and 1907), Panama (1910), Portugal (1914), Salvador (1895 and 1907), United States (1909).

Cuba (2)—Brazil (1909), Italy (1903).

Denmark (13)—Belgium (1905), Brazil (1911), France (1905 and 1911), Great Britain (1905), Italy (1905), Netherlands (1904), Norway (1908), Portugal (1907), Russia (1905), Spain (1905), Sweden (1908), United States (1908).

Dominican Republic (8)—Constitution (1908), Brazil (1910), Guatemala (1902), Mexico (1902), Peru (1902), Salvador (1902), Spain (1902), Uruguay (1902).

Ecuador (10)—Argentina (1911), Belgium (1887), Brazil (1909), Colombia (1856 and 1905), Italy (1911), Salvador (1890), Spain (1888), Switzerland (1888), United States (1909).

France (16)—Argentina (1910), Brazil (1909), Colombia (1908), Denmark (1905 and 1911), Great Britain (1903), Italy (1903), Netherlands (1904), Norway (1904), Portugal (1906), Spain (1904), Sweden (1904), Switzerland (1904), United States (1908 and 1911), Uruguay (1913).

Germany (1)—Great Britain (1904) [expired July 12, 1914].

Great Britain (17)—Argentina (1909), Austria-Hungary (1905 and 1910), Brazil (1909), Colombia (1908), Denmark (1905), France (1903), Germany (1904) [expired July 12, 1914], Italy (1904), Netherlands (1905), Norway (1904), Portugal (1904), Spain (1904), Sweden (1904), Switzerland (1904), United States (1908 and 1911).

Greece (4)—Belgium (1905), Brazil (1910), Italy (1910), Spain (1909).

Guatemala (14)—Costa Rica (1895 and 1907), Dominican Republic (1902), Honduras (1895 and 1907), Mexico (1902), Nicaragua (1874 and 1907), Peru (1902), Salvador (1890, 1902 and 1907), Spain (1902), Uruguay (1902).

Haiti (2)—Brazil (1910), United States (1909).

Honduras (13)—Belgium (1910), Brazil (1909), Costa Rica (1895 and 1907), Guatemala (1895 and 1907), Italy (1913), Mexico (1908), Nicaragua (1907), Salvador (1878 and 1907), Spain (1894 and 1905).

Italy (25)—Argentina (1907), Belgium (1910), Bolivia (1911), Brazil (1911), Chile (1913), Costa Rica (1910), Cuba (1903), Denmark (1905), Ecuador (1911), France (1903), Great Britain (1904), Greece (1910), Honduras (1913), Mexico (1907), Netherlands (1909), Norway (1910), Paraguay (1911), Peru (1905), Portugal (1905), Russia (1910), Siam (1868), Spain (1910), Sweden (1911), Switzerland (1904), United States (1908).

Japan (1)—United States (1908).

Mexico (13)—Brazil (1909), Dominican Republic (1902), Guatemala (1902), Honduras (1908), Italy (1907), Peru (1902), Persia (1902), Salvador (1893 and 1902), Spain (1902), United States (1848 and 1908), Uruguay (1902).

Netherlands (7)—Denmark (1904), France (1904), Great Britain (1905), Italy (1909), Portugal (1894 and 1904), United States (1908).

Nicaragua (11)—Belgium (1906), Brazil (1909), Costa Rica (1868 and 1907), Guatemala (1874 and 1907), Honduras (1907), Portugal (1909), Salvador (1883 and 1907), Spain (1904).

Norway (13)—Belgium (1904), Brazil (1909), Denmark (1908), France (1904), Great Britain (1904), Italy (1910), Portugal (1908), Russia (1904), Siam (1868), Spain (1905), Sweden (1905), Switzerland (1904), United States (1908).

Panama (4)—Brazil (1909), Costa Rica (1910), Portugal (1914), Spain (1912).

Paraguay (6)—Argentina (1876 and 1899), Brazil (1911), Italy (1911), United States (1909), Uruguay (1883).

Persia (1)—Mexico (1902).

Peru (17)—Argentina (1874), Bolivia (1863, 1873 and 1901), Brazil (1909), Colombia (1829, 1870 and 1905), Dominican Republic (1902), Guatemala (1902), Italy (1905), Mexico (1902), Salvador (1902), Spain (1897), United States (1908), Uruguay (1902), Venezuela (1912).

Portugal (18)—Constitution (1911), Argentina (1909), Austria-Hungary (1906), Brazil (1909), Costa Rica (1914), Denmark (1907), France (1906), Great Britain (1904), Italy (1905), Netherlands (1894 and 1904), Nicaragua (1909), Norway (1908), Panama (1914), Spain (1904), Sweden (1905), Switzerland (1905), United States (1908).

Rumania (1)—Belgium (1905).

Russia (7)—Belgium (1904), Brazil (1910), Denmark (1905), Italy (1910), Norway (1904), Spain (1910), Sweden (1904).

Salvador (20)—Brazil (1909), Costa Rica (1895 and 1907), Dominican Republic (1902), Ecuador (1890), Guatemala (1890, 1902 and 1907), Honduras (1878 and 1907), Mexico (1893 and 1902), Nicaragua (1883 and 1907), Peru (1902), Spain (1902), Switzerland (1883), United States (1908), Uruguay (1902), Venezuela (1883).

Siam (5)—Austria-Hungary (1869), Belgium (1868), Italy (1868), Norway (1868), Sweden (1868).

Spain (31)—Argentina (1902 and 1903), Belgium (1905), Bolivia (1902), Brazil (1909), Colombia (1894 and 1902), Denmark (1905), Dominican Republic (1902), Ecuador (1888), France (1904), Great Britain (1904), Greece (1909), Guatemala (1902), Honduras (1894 and 1905), Italy (1910), Mexico (1902), Nicaragua (1904), Norway (1905), Panama (1912), Peru (1897), Portugal (1904), Russia (1910), Salvador (1902), Sweden (1905), Switzerland (1907 and 1913), United States (1908), Uruguay (1902), Venezuela (1882).

Sweden (13)—Belgium (1904), Brazil (1909), Denmark (1909), France (1904), Great Britain (1904), Italy (1911), Norway (1905), Portugal (1905), Russia (1904), Siam (1868), Spain (1905), Switzerland (1904), United States (1908).

Switzerland (14)—Austria-Hungary (1904, 1907 and 1913), Belgium (1904), Ecuador (1888), France (1904), Great Britain (1904), Italy (1904), Norway (1904), Portugal (1905), Salvador (1883), Spain (1913), Sweden (1904), United States (1908).

United States (28)—Argentina (1908), Austria-Hungary (1909), Bolivia (1909), Brazil (1909), Chile (1908), China (1908), Costa Rica (1909), Denmark (1908), Ecuador (1909), France (1908 and 1911), Great Britain (1908 and 1911), Haiti (1909), Italy (1908), Japan (1909), Mexico (1848 and 1908), Netherlands (1908), Norway (1908), Paraguay (1909), Peru (1908), Portugal (1908), Salvador (1908), Spain (1908), Sweden (1908), Switzerland (1908), Uruguay (1909).

Uruguay (11)—Argentina (1899), Brazil (1911), Dominican Republic (1902), France (1913), Guatemala (1902), Mexico (1902), Paraguay (1883), Peru (1902), Salvador (1902), Spain (1902), United States (1909).

Venezuela (8)—Constitution (1904), Argentina (1911), Belgium (1884), Brazil (1909), Colombia (1842), Peru (1912), Salvador (1883), Spain (1882).

NOTES.

The foregoing list is an enlargement of one first published in 1911, and revised in later years. It differs from the earlier list in scope by including all arbitration engagements binding upon states. Its demonstration of the extent of arbitration as an institution gives the present list a considerable significance as a barometer of the state of international politics. Wholly aside from the technical scope of the various treaties, it is their mere existence which is most important. This is due to the reaction of conciliatory methods on international relations. Mr. Root, whose practical judgment in such matters is not to be doubted, has said that the subject in dispute is nothing, the spirit in which it is approached everything. Arbitration, the most formal, best-known and best-developed method of pacific settlement, reacts upon practical affairs in three ways:

1. For specified categories of cases it places state relations upon a basis of law, which is broadly synonymous with justice;

2. Outside of the scope of the specified categories, it tempers state relations, and thus reacts to develop a disposition to friendship;

3. It results, in action, in providing a normal solvent of international difficulties, enabling states to liquidate their mutual complaints.

These classifications may be briefly considered in order:

1. The following figures, summarized from Lange's tables,[1] give an indication of the scope of the treaties: Arbitration of any dispute without reserve, 36 bipartite treaties; any dispute, under reserve of constitutional provisions, 13 treaties; any dispute, under reserve of vital interests, independence, national honor or interests of third powers (or some of these), 46 treaties; the question of the competence of the court as defined by the treaty, 19 treaties; differences of a juridic order or relative to the interpretation of treaties, 65 treaties; interpretation or application of international law and of conventions, including those of amity, commerce and navigation, 44 treaties. Lange's table, which envisages compromisory clauses, shows 72 other subjects on which arbitration is provided by convention.

2. What was informally known as a policy of systematic enmity, under which peace was sustained by a precarious equilibrium of hostile forces, was once normal in international relations. The period succeeding the treaty of Vienna of June 9, 1815, which marked the close of the great Napoleonic adventure, saw the dis-

[1] Christian L. Lange, "Union interparlementaire. L'Arbitrage obligatoire en 1913. Relevé des stipulations conventionnelles en vigueur en 1913 instituant le recours obligatoire à l'arbitrage international." Bruxelles: Misch & Thron, 1914.

appearance of so many international problems that a new spirit gained a casual and experimental hearing. Changes in government gave birth to democracy at the same time. The new attitude may be termed a policy of systematic friendship, very indifferently followed in Europe. But in the democratic soil of the Americas it was consistently practiced, and the example has had profound repercussions. Systematic friendship has become in the last few decades an ideal that has found its way into practice and changed the whole course of international relations.

Generally speaking, the states not inherently given over to the vicious practices of the older system will be found responsive to the ideas phrased by Count Aplefeld, Danish minister for foreign affairs, in a statement to the Folkething, which thereupon voted its confidence in him: "Denmark is unanimous in its opinion about its foreign policy. If we have a conflict with any other state which we cannot solve by diplomatic negotiations, we shall submit it to arbitration. Our position during any conflict between foreign countries is absolute neutrality." [2]

In fact, the policy of systematic friendship gains adherence in all orders of international relations. It would be difficult to find a finer example of hostile diplomacy than the negotiations of Italy with Austria-Hungary that brought the former into war. Yet both sides accepted as the purpose of the hard bargaining the following: "The political reason is obvious in the necessity of creating once and for all between Austria-Hungary and Italy a situation propitious for the elimination of constant frictions and misunderstandings between the two nations, substituting in their stead relations of sympathy and cordiality, capable of rendering possible a normal co-operation toward common goals of general politics, if we wish to provide for the future and to render useful and fruitful an alliance between the two states. Any alliance, which is not fed by friendship and which does not contribute on its own account toward augmenting this friendship, must necessarily be barren and vain." [3]

When the purposes of friendship are alleged under conditions essentially predatory in character—and that has been a characteristic of much of Europe's politics —the letter and the spirit have no vehicle of conjunction. Arbitration provides such a vehicle, such an agent. Where it exists, policies of friendship do not wholly die on the lips of statesmen, but in some degree get into the blood of diplomacy.

Thus it is as a barometer of the extent to which systematic friendship is operative in international affairs that arbitration treaties—the most popular and best known of conciliatory methods—have their importance. With the exception of backward states and small states so situated as to be in the maelstrom of inter-

[2] 6 *American Journal of International Law*, 715.

[3] Baron Sonnino to the Duke of Avarna, January 7, 1915. Italian Green Book on outbreak of war with Austria-Hungary, No. 10; see also Nos. 12, 20, 21, 42, 56.

national politics, the record of arbitration treaties signed is a fairly infallible index to international conditions. The great state which has few such treaties will bear watching. At the outbreak of the European war only one arbitration treaty existed in force between those states which became opposing belligerents. The Teutonic allies then had eight; the other allies 66, omitting Belgium, which is technically not at war. Excluding Italy, the anti-Teuton allies possessed 41 such treaties. Thirty-three neutral states have a total of 379 such engagements, an average of about 11½ each. The ten belligerents—excluding San Marino—have but 74 altogether, an average of about 7½ each. Excluding Italy as a late and rather individualistic participant in the war, the result would be even more striking; for then nine belligerents would have only 49 such standing engagements, or an average of about 5½ each.

3. Before the development of the European system which brought into existence the policy of systematic enmity, arbitration was much used. In the middle ages pacific settlement was as much practiced as in the last century, if we take into consideration the differences in international intercourse. What is politically known as the European system dominated the affairs of the seventeenth and eighteenth centuries, and its corollary of enmity forced arbitration out. Servien asserted as a dictum of state that "one could always find enough rights to warrant using the sword for making them good"; and Servien was one of Louis XIV's principal negotiators. Obviously there was no room with such a theory predominant for making rights good by law.

It was in 1794 with the famous Jay treaty between the United States and Great Britain that arbitration—the method of establishing rights by law—was resurrected. Its growth as a practical method can be appreciated from a few figures. Dr. W. Evans Darby, in his "Modern Pacific Settlements," lists 6 arbitrations in the eighteenth century, 471 in the nineteenth, and 63 from 1900 to 1903. Since then there have been about 150 arbitrations, most of which have been held under the provisions of treaties. About 200 arbitrations occurred in fourteen years of the twentieth century. Many arbitrations have been held without treaty provision, the two disputant states in such cases agreeing to refer the matter to umpires or special courts mutually acceptable. But this haphazard system has since 1899 been rapidly giving way before the desire of the states of the world to enter into understandings with other states as to what questions they shall refer to arbitration.

INTERNATIONAL TREATIES.—Agreements to arbitrate are of several kinds. The best-known system is that under the provisions of a convention of the Second Hague Conference,—revising and completing the plan of the First Conference,—called the Convention for the Pacific Settlement of International Disputes. This convention provides a system for offering good offices and mediation, establishes

a constitution for international commissions of inquiry, and, in Part IV, Articles 37–90, provides a system for international "arbitration for settlement of disputes between states by judges of their own choice and on the basis of respect for law." The tribunal was originally constituted by a convention of the First Hague Conference of 1899, and has been in operation since 1902. Fifteen cases have already been decided by it. Two more are on the docket, and three others are contemplated for submission.

In addition to this system, arbitration under treaty stipulations is provided for by the general conventions drawn up by the Pan American and the Central American Conferences, and arbitration of specific questions is provided for in four of the constituent conventions which regulate the action of international unions. Central America has its own court of justice.

National Treaties.—Besides this general machinery providing for arbitration, each nation may reach such agreements with other individual nations as it finds desirable for the settlement by arbitration of such questions as it considers proper to submit to such decision. These may be either treaties dealing only with arbitration or dealing with it and other matters. There are forty-eight fully-organized and sovereign states in the world. If each had signed one of these bipartite treaties with all its peers, there would be 1,128 arbitration treaties between pairs of nations. Such a number, however, is not necessary, for the majority of the sovereign states do not come into sufficiently close contact with each other to result in difficulties which are incapable of settlement by ordinary diplomatic means. The Summary by Countries herewith shows accurately the extent to which the states coming into contact with each other are already protected by such treaties.

Types of Treaties.—The great fault of the bipartite arbitration treaty has been the restriction which its terms have placed upon the scope of arbitration. Recent treaties have definitely recognized the legal character of arbitration and made the justiciable nature of the case at issue the test of arbitrability. Theretofore, where exceptions had been made, only the capricious opinion of the contracting parties, at a time when the dispute was acute, was left to determine the arbitrability of the case.

Contiguous states or those whose relations or rivalries are close naturally become careful about their engagements to arbitrate, though the success of this system of settling international disputes argues for a steadily widening scope. It follows that the smaller and so-called non-military states have usually led in advances of this kind. A treaty of amity and commerce between Belgium and Siam, signed at London, August 29, 1868, says in Article 24:

"If any difference shall arise between the two contracting countries which may not be settled amicably by diplomatic correspondence between the two governments, these governments shall, by common accord, nominate an arbitrator, some

third neutral and friendly power, and the results of the arbitration shall be accepted by the two parties."

Denmark's treaties with the Netherlands and Italy contain this reference clause:

"The high contracting parties engage to submit to the Permanent Court of Arbitration established at The Hague by the convention of July 29, 1899, all differences of whatever character which may arise between them which they have not been able to solve by diplomatic methods, and this shall be done in the case where there shall be differences whose origin is in facts previous to the conclusion of the present convention."

A treaty of this type between neighbors is that of Colombia and Ecuador of 1905. Its arbitrable terms are:

"The Contracting Parties solemnly promise never to appeal to recourse to arms before they have essayed that of negotiation . . . ; and until due satisfaction has been expressly refused, after a friendly and neutral Power, chosen as Arbitrator, shall have given its decision on the justice of the demand in presence of the arguments and proofs adduced in support thereof by one side and of the replies of the other side."

The average treaty, however, includes the formula excepting questions of "vital interest, independence and national honor,"—phrases objectionable on account of vagueness in application. The thirty-two treaties of Brazil differ somewhat in text, but illustrate this restricted type. The Brazilian-Chinese reference clause may be cited as inclusive of all elements employed in the set. It reads:

"Article I. Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interest, the independence, or the honor of the two Contracting States, and do not concern the interest of Third Parties: it being further understood that, if one of the two Contracting Parties prefer it, all arbitration resulting from the present Convention shall be submitted to a Head of a State, to a friendly Government, or one or more arbitrators chosen outside the list of the Tribunal of The Hague."

A further type of treaty worthy of mention is that of 1911 between Denmark and France, which is officially described in these words: "This treaty was inspired by the labors of the Second Peace Conference and reproduces in its general lines the text accepted by 32 states, among which were France, the United States, Great Britain and Russia. It sanctions the idea of 'obligatory arbitration without reserves' for certain cases clearly defined and forming four principal categories (Art. 2). For other cases of contingent difference recourse to arbitration remains always possible, but the contracting states have the right to invoke the reserves

of honor, vital interests, etc., and, as a result, not to submit to arbitration. There should be noted certain dispositions of this treaty (Art. 2, at end) which have for their purpose the lessening of the difficulties encountered at the conference in 1907 by the opponents of obligatory arbitration. Art. 4 likewise carries an innovation in providing that, if the contracting states cannot agree on the text of the *compromis*, the Permanent Court at The Hague will be competent to establish this text."

Another type of treaty now very common is that containing a clause specifying arbitration of disputes arising under the provisions of the treaty itself. These clauses—technically called compromisory clauses—are usually inserted in commercial treaties, and a recent compilation indicates that 141 such treaties have been negotiated by American states since 1832. Lange shows that nearly 100 categories of disputes are subject to such treaty provisions. This type of treaty, therefore, definitely throws many international problems out of the range of possible warlike operations, and contributes in detail to the development of arbitration. The letters explanatory of the Franco-German Moroccan and Congo conventions of November 4, 1911, illustrate this type of agreement. The explanatory letters say textually:

"Finally, desiring to give to said convention the character of an act destined not only to remove every cause for conflict between our two countries, but also to be an aid to our good relations, we are agreed in declaring that the differences which might arise between the contracting parties with regard to the interpretation and the application of the dispositions of the convention of November 4 and which might not be settled through diplomatic channels, shall be submitted to an arbitral tribunal organized according to the terms of the Hague Convention of October 18, 1907. An agreement shall have to be drawn up, and for that purpose the regulations of the same convention shall be followed, provided no derogation should be made thereto by special agreement at the time of the dispute."

A FRENCH PRECEDENT.—The progress of arbitration must depend upon governmental action, and it is therefore of no small importance to note that, in response to a desire expressed many times by the French delegation to the Second Hague Conference, the French Minister of Foreign Affairs by decree of March 7, 1911, designated two officials to deal with questions of international arbitration and the periodic Hague conferences. The report on foreign affairs read in the Chamber of Deputies that year (*Journal Officiel*, 1255) says: "The conclusion of treaties of arbitration with certain states and search for the formulas best adapted to the circumstances are the principal objects of the new service."

LEGAL EFFECT.—A treaty is not binding until it has passed through all its stages. A treaty signed by the negotiators binds only the negotiators and the empowering division of their governments. Before the governments themselves are legally

bound, their ratifying authorities must have approved the treaty; and it becomes mutually binding only after the exchange of ratifications,—a formality by which each state receives a copy of the document properly signed by the negotiating officers and the ratifying authorities of each state. In most countries another step is necessary before the treaty is considered the law of the land. This is promulgation,—a formality of publishing the treaty as a proclamation. No treaty is binding until these several steps have been taken. Most treaties are reported publicly only when signed, and it is, therefore, often exceedingly difficult to follow them through their later history. This circumstance accounts for the incompleteness at any given time in the details of any such list as the present.

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CHARLES H. LEVERMORE

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PREPAREDNESS—FOR WHAT?

By Charles H. Levermore

The writer of this article neither advises disarmament nor favors a frenzied haste to arm, believing that the former policy is still impracticable, and the latter, unnecessary and irrational.

It is conceded that the physical force at the command of the United States Government should be adequate to cope with *probable* dangers, but there is no reason why we should prepare to meet every peril that the lively imaginations of alarmists conceive to be *possible.*

Amid the extravagant talk about "defenseless America," we recall the sane and sober thought of our countrymen to these facts:

1. No Great Power has ever wished to provoke a war with us; whether rightly or wrongly, every one of our wars has been begun by ourselves. The undeniable historic fact is that the unvarying foreign policy of other powers has always been to avoid hostilities with us. Their reasons for that policy are stronger to-day than they ever were before.

2. No Great Power could invade this country without long, exhaustive and widely advertised preparation, nor, any but Great Britain, without perilous adventure.

3. No Great Power can attack us while the present war continues, nor presumably for a long time thereafter. Even if our controversies with any belligerent should sever our diplomatic relations, or come to avowed hostility, this country would be for a long time necessarily free from attack.

4. War between us and Great Britain is so far beyond the bounds of probability, thanks to the spirit and power of public opinion in both countries, that it may be dismissed as out of the question.

5. Now and for an indefinite future, as in the past, the Monroe Doctrine, our worst danger-point, is safeguarded not only by our vast and varied resources and by the width of oceans, but

also by the consistent support of British diplomacy and by the latent power of the British fleet.

6. Armament is no guaranty of peace. If it were, the European continent from France to Russia would be to-day the most peaceful region on earth. Nations, like men, get what they prepare for. Compare the frontiers of Alsace and Poland with the undefended four-thousand-mile boundary between us and Canada, and observe that if public opinion wants peace, it prepares for peace and obtains it.

7. A sudden and radical increase in our naval construction and military appropriations will inevitably be regarded as heralding a new and militant foreign policy on our part. At such a critical time as this, such action would arouse suspicion and alarm among our neighbors to the south, and in more distant continents. If they were moved to imitate our example, we would be starting another dance of death like that in Europe. Such a policy is inconsistent with the service of mediation and world-reorganization that belongs to the United States at the close of this war.

We should not be scared into hasty action. While the war lasts we have ample time for deliberate study of our needs for defense and adequate preparation for them. When the war ends, we shall doubtless be privileged to co-operate in reorganizing international relations upon a new and better basis. It is not impossible that, in a chastened spirit, both the voluntary and involuntary participants in this war will seek to organize the world for Peace with Justice under Law. At least some of them will try to create such a mutual insurance association against war as is even now prefigured in the plans of the League to Enforce Peace and of the Central Organization for a Durable Peace. That will be the proper time to determine our policy respecting armaments, in accordance with the new conditions.

If all these plans fail, and the world staggers on toward more fratricidal struggles in the future, not one of the exhausted belligerents will wish to add to its list of active enemies the most powerful nation of the world in wealth and resources; so that, in any case, it is safe and wise for us to make haste slowly.

We are already spending 67 out of every 100 dollars of our national revenue to pay for past wars and military preparations. It is common knowledge that part of this money goes to maintain navy yards and army posts whose usefulness is confined within the Congressional "pork barrel." In the name of common honesty we demand such wisdom in appropriations and such efficiency in administration that no public moneys will be expended chiefly to help party managers and politicians strengthen their political fences. If this can be secured, large sums will be available for the improvement of our military and naval resources without increasing the usual appropriations. Under these circumstances we condemn the recklessness and hysteria which cry out for the immediate investment of hundreds of millions of dollars in new battleships and greater armies.

The formal demand of the Navy League of the United States for a "navy capable of meeting any possible force from across the seas," is preposterous. Equally extravagant is the declaration of a chief spokesman of the alarmists,—"I want to see the United States equipped with a big enough navy to make us safe beyond peradventure of a doubt against any nation, including Great Britain, and I don't much care how much it costs." Such extravagant utterances are made in ignorance of the facts of our international situation and our relation to the various Great Powers, or in reckless disregard of them. Such a policy would commit this nation to the same mad rivalry which has embroiled the British Empire and Germany, nullified temporarily the best efforts to substitute Law-right for Fist-right, plunged Europe into a chaos of battle, murder and sudden death, and reduced international relations upon that continent to a trial of brute strength.

Public opinion may safely discredit such wild demands, especially when they come from office-seeking politicians, from those who are openly or covertly interested in the manufacture and sale of war material, and from the columns of sensational, demagogic newspapers and magazines.

The assertion, recently made in the state platform of a political party, that "an adequate armed force is to-day the only security against aggression" is another ebullition of extravagance. It ignores the strength of public opinion, of economic opposition in all forms

even to the boycott and nonintercourse, and the facts of location, population and civilized power. We believe that if the United States, situated as it is and being what it is, guides its affairs with due discretion and without injustice, it will incur no danger of attack from across the ocean, and that our history proves this.

The alarmists do not love their country any more than we do. They are no more interested than we are in providing for the necessary defense of our coasts and for the maintenance of peace within our borders. The pertinent question is, "What is the necessary defense?"

To the answers already indicated, we add the following:

1. Our Government may well procure or manufacture supplies of all kinds of ammunition, artillery, equipment and munitions of war for the use of both army and navy. Safe storage for such material should be provided at some distance from our coasts. National shops and laboratories, manned with expert workmen and investigators, may well be established to study and improve the means of defense.

2. A first need of a citizen army is a complement of well-trained officers. Our country can, as Mr. Bryan said, produce a million volunteer soldiers in twenty-four hours, but without equipment and officers they would be useless. Neither officers nor equipment can be provided in a day. Our Government may properly impart to young men who have no intention to become professional soldiers a sufficient education in military science to qualify them as subordinate officers, and, at the same time, give them a knowledge of international law and relations which would broaden their view of national policy; and they should be so enrolled, whether active in the state militia or not, that on call they would be at once available to organize and lead our citizen soldiers.

3. The citizen soldiery in every state may advantageously be welded into a more inclusive and effective organization. In most states it needs to be strengthened by co-ordination with the Federal military administration. While recognizing this as a proper duty of citizenship, we ought to oppose any and all

measures tending to make the state organizations dependent upon the national treasury, or to infect them with the demoralizing influence of a national pension system.

4. The regular army should unquestionably be large enough to do all necessary police duty in our outlying possessions, along our frontiers and within our borders, and to form a nucleus for a volunteer army should that unhappily become necessary. Its possible increase, in view of these duties, should be determined by expert judgment.

5. This war has demonstrated the great importance of mines and submarines in coast defense and the undeniable value of aeroplanes for both land and sea forces. While we may profit by this demonstration, we should surely avoid the expenditure of large sums of money upon other forms of naval construction still of dubious value and liable within a very few years to be sent to the scrap heap. We have yet much to learn concerning the relative value of dreadnoughts and of submarines used in offense upon the high seas. During this war, either the submarines will discredit the monster battleships, or the British and German battleships will engage and endeavor to demolish each other. In the former event, it is evident that we have enough dreadnoughts now. In the latter, our present war fleet will become the first in the world, and we shall not need to enlarge it for some time. We believe, therefore, that we may wisely await the result of the war, without undue haste to invest in battleships that cost 18 millions of dollars each and may prove to be of much less value for defense than submarines.

It is obviously foolish to build warships for either air or water service without maintaining a competent force of men trained to manage them, and equally absurd to provide ordnance without enough ammunition to serve until a new supply can be secured.

This not inconsiderable program of preparation includes all that will be needed for years to come.

The problem presses for solution no more now than a year ago, and in case of certain imaginable issues of the war the pressure will

surely not increase. In any event, it is plain that we need no lavish expenditure for dreadnoughts, no universal conscription or enrolment, no large standing army, and, above all, no hysterical talk about attacks that no power can now make, or wants to make. With all due respect to the wonderful Chinese race, we have no wish to "Chinafy" our nation; neither will we Turkify it or Prussianize it.

Finally any proposal to introduce military training, compulsory or voluntary, into the public schools should be unreservedly condemned. While indorsing any necessary strengthening of the militia organizations, we believe that such experience is unnecessary and unsuitable for childhood and youth.

1. The time of the public schools is already engrossed with the duties for which the schools exist. They cannot safely or properly be asked to make room for military education, which is, like other studies of college grade, essentially a training for men by men. Discipline can be, and should be, instilled without it.

2. The commonly prescribed physical exercises are better adapted to the needs of youth than military training can possibly be.

3. Modern trench warfare has made battalion drill practically useless except for pageantry.

4. A majority of boys dislike the addition of military drill to their already crowded curriculum, and are on that account, as military men have regretfully noted, disinclined later to undertake militia service.

5. "Patriotism" has been, in the past, too much identified with military service. This misunderstanding of terms and of values would be aggravated by the requirement of military training in secondary schools, and would so much more surely inspire our people with an antisocial and antidemocratic philosophy of force.

We must not permit the brutal rush for world empire in Europe to dislodge us from the ways of peace. Reasonably securing our defense, and repudiating all ideas of aggression, we should resolutely adhere to the American principle that peace is the normal and war the

abnormal thing, and that patriotism may render greater service in peace than in war.

The Boy Scout organization furnishes the kind of training and discipline that young boys need in personal sacrifice for the common good. In this country that movement has fortunately been kept free from the militarist influence, though much of the Boy Scout training is distinctly valuable to the prospective soldier.

Happily we are not and have never been a militarist nation. It is one of our greatest safeguards and blessings that our democracy has neither inherited nor developed the militarist spirit. To perpetuate our freedom we must preserve our education, our society and our public policy from the follies of competition in armament and from the lust of aggression. There have been occasions when American sentiment has been bitterly inflamed against England; but we have preserved peace with her for a hundred years because our country, in the words of Lord Bryce, is "free from a pernicious military caste which works such frightful evil in Europe, being indeed driven to desire opportunities for practicing the work for which the profession exists."

Only as we are faithful to our ideals of justice, which is the purest patriotism, and only as we embody these ideals with common sense in our national administration and our international relations, can we remain in a position to exert our influence and our strength in the councils of the nations for a world organization in the interest of permanent peace.

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In discussing questions of military and naval preparation, the first necessity is to know the facts. Among the following references there is a brief list of public documents in which facts are to be found. Naturally such official reports are likely to be written by military and naval experts who take a professional view of the problems under discussion. No one can ask an expert to take any other view, and the trained technical judgment is, of course, of the highest value and authority.

It is well to remember, however, that the authority of the military

and naval expert is not strictly comparable to that of the physician and surgeon. The latter deals with cases that are individual and of a very limited interest. The professional soldier, on the other hand, is often engaged upon problems which are as likely to be solved by the diplomatic, political, economic or even ethical experts as by him. It is often impossible to say that the illumination from any one searchlight is conclusively convincing. The forces that are bound together in civilization are so complex that the student must require the most liberal provision of facts and the widest comparison of intelligent opinion.

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MARY J. MACDONALD
[4]MARGUERITE NORTON

[1] Deceased, February 24, 1915.
[2] Relinquished active service in September, 1915.
[3] Resigned, June 1, 1915.
[4] Appointed, September 1, 1915.

GENERAL STAFF FOR THE YEAR 1916[1]

FRED B. FOULK
CHARLES H. LEVERMORE
EDWIN D. MEAD
(On leave of absence)
DENYS P. MYERS
GEORGE W. NASMYTH

Acting General Secretary

EDWARD CUMMINGS

Lecturers

NORMAN ANGELL
G. LOWES DICKINSON
HAMILTON HOLT

Office Staff

A. GILBERT ALLEN
BEULAH M. CORD
MARY J. MACDONALD
MARGUERITE NORTON

[1] These changes in arrangement and nomenclature were authorized at the annual meeting of the trustees for the year 1915.

ANNUAL REPORT OF THE WORK OF THE WORLD PEACE FOUNDATION, 1915

HISTORICAL.—The World Peace Foundation was first established by Mr. Edwin Ginn, July 12, 1910, at 29 Beacon street, Boston, under the name of the International School of Peace. By-laws were adopted, which defined the purpose of the corporation as follows:

> The corporation is constituted for the purpose of educating the people of all nations to a full knowledge of the waste and destructiveness of war, its evil effects on present social conditions and on the well-being of future generations, and to promote international justice and the brotherhood of man; and generally by every practical means to promote peace and good will among all mankind.

Eight gentlemen were associated with Mr. Ginn as the Trustees of the new organization. Their names were A. Lawrence Lowell, David Starr Jordan, Alvin F. Pease, Mark R. Jouett, Jr., George W. Anderson, Edwin D. Mead, Edward K. Robinson, James L. Tryon. Mr. Ginn was chosen President, and Mr. Mead, Secretary. In November following, Messrs. Pease, Jouett, Robinson and Tryon resigned, and W. H. P. Faunce, Samuel T. Dutton, Sarah L. Arnold, Samuel W. McCall, Joseph Swain, Edward Cummings and George A. Plimpton were elected members of the Board.

At a meeting of the Board, December 22, 1910, Messrs. Jordan and Mead resigned their memberships in order to become Directors, and it was voted to change the name of the corporation to the World Peace Foundation.

ALBERT G. BRYANT.—The beginning of the year 1915 was marked by two serious calamities to the working staff of the Foundation. The first was the lamented death of Mr. Albert G. Bryant, the head of the Department of Business Organizations.

For several months he had suffered intermittently from appendicitis, but he had kept actively at work until the end of the month of January.

Early in February he went to the hospital for an operation. His recovery was rapid and he was considered out of danger, but on the

24th of February death came suddenly as the result of a blood clot near the lungs.

All his associates in the Foundation were overcome with a poignant sense of personal loss, recognizing, in the language of our Chief Director, "his noble personal qualities, his remarkable enthusiasm and energy, his rare executive force, and his deep devotion to the peace cause. Our obligations to him for the strong reinforcement which he has brought us during the brief period of his relation with us were great indeed; and in no other field was that reinforcement so signal as in his organization of the various State Commissions, which he determined with such sagacity and care."

ILLNESS OF MR. MEAD.—The second misfortune which befell the Foundation was the illness of the Chief Director, Mr. Edwin D. Mead, which still continues. In the winter months of 1915, it was apparent that Mr. Mead had overstrained his nerve strength. During the month of March his prostration grew visibly worse, until, in the last week of the month, he felt compelled to abandon all his plans for work, and devote himself to rest and other restorative measures.

The Trustees named Dr. Charles H. Levermore, secretary of the Board of Directors, to serve as Acting Chief Director, and placed on record the following minute:

Voted: That the Trustees learn with great regret of the indisposition of Chief Director Mead. Appreciating, as they do, that his disability results from his tireless and unremitting activity in the work of the Foundation, and in grateful appreciation of his services, they take pleasure in extending to him the opportunity of a year of rest, from April 1, 1915, without diminution of salary; in the hope and belief that this will enable him to return to his work in complete health and vigor.

PUBLIC ADDRESSES AND VISITS TO COLLEGES, UNIVERSITIES AND NORMAL SCHOOLS.—During the winter and early spring months of 1915, both Dr. Levermore and Dr. Nasmyth made extended tours of visitation among educational institutions, the former in the south, and the latter in the west.

Dr. Levermore began his tour at the University of Virginia, and went as far south as the State University of Alabama at Tuscaloosa. Altogether he visited 48 institutions in six different states, and made more than 50 addresses in student communities possessing a total membership of over 20,000. Apart from public addresses, the purpose

of this visitation was to confer with college executives and professors, especially professors of history and politics, economics and international law, and to present to both teachers and students interested in the work of the debating clubs, literary societies and civic leagues, definite plans for the systematic study and discussion of the different phases of international relations. Every opportunity to visit normal schools and talk to the future teachers about instruction in history and politics was improved.

Early in November, an invitation to deliver an address at the meeting of the Maine State Teachers' Association at Bangor, enabled Dr. Levermore to visit in a similar manner nearly all the institutions of higher education in that state.

In like manner, during the past year, Dr. Nasmyth visited about 30 colleges and universities, going as far west as Minnesota, Kansas and Nebraska. Some of the more important institutions received two or three visits, and, as opportunity offered, speeches were made before the weekly student assemblies, or before union mass meetings organized by the students, or before classes in history, politics and international law.

During the months of November and December, 1914, Dr. David Starr Jordan gave 70 addresses in opposition to war and the war system before university audiences and chambers of commerce in many cities. In this tour, which extended from ocean to ocean, he enjoyed the efficient help of our late colleague, Mr. Albert G. Bryant.

After the close of the university year in May, Dr. Jordan gave 60 lectures upon the same subject in principal cities of the Pacific coast and the middle west, and in the late autumn he crossed the continent upon a third lecture tour. During the summer, he took part in 12 congresses held in connection with the Panama-Pacific International Exposition at San Francisco, discussing the question of that enterprise in relation to problems of international peace. In August, he delivered the presidential address before the National Education Association on the subject, "The Teacher and War." In October, he was president of the International Peace Congress of San Francisco, and gave a presidential address on "Ways to Lasting Peace."

Of other Directors of the Foundation, Dr. Charles R. Brown reported the delivery of "a considerable number of peace addresses during the last year"; Professor William I. Hull gave 63 addresses or debates on the subjects of "Preparedness," "The New Monroe Doctrine," and "The Hague Conferences"; and Mr. Hamilton Holt spoke upon subjects connected with world peace and the League to Enforce Peace at 10 different colleges or universities. Director D. P. Myers also represented the Foundation at the World Court Congress at Cleveland, May 11–13, and read a paper on the composition of the court. Immediately afterward, he attended the Mohonk Conference.

DEPARTMENT OF WOMEN'S CLUBS AND SOCIETIES.—During the last twelve months the character and scope of work among women's societies has been materially affected by the formation of the Woman's Peace Party, and by the fact that important organizations, such as the General Federation of Women's Clubs, the D. A. R., and the Association of Collegiate Alumnæ, have entered definitely and systematically into the movement for world peace. Each one of these organizations is now, in its own way, actively promoting our cause.

Mrs. Duryea, in the winter of 1914, made her usual lecture tour through the middle states, covering the territory from Saratoga to Washington, D.C. The tour filled the time of nine weeks. A month was spent in and about New York, two weeks in and about Philadelphia, nearly two weeks in Delaware, and a week in Washington. The itinerary called for an address nearly every day, and sometimes twice and even three times a day. In Philadelphia, Mrs. Duryea was efficiently assisted by Mr. Cadwallader, of the Pennsylvania Arbitration and Peace Society; in Washington, by Mr. Ramsey, President of the Washington Peace Society, and by Mrs. Ramsey; and in Delaware, by Mrs. Hayward, President of the State Federation of Women's Clubs.

After her return to Boston, in April, Mrs. Duryea filled about 20 lecture engagements in this vicinity, and co-operated with leaders of the Woman's Peace Party in planning and inaugurating their work. She also assisted in organizing Peace Committees in women's clubs. During the summer, until August 7, she prepared and arranged

material for a pamphlet of suggestions for study, designed for use in the women's organizations.

THE STUDENT CLUB MOVEMENT.—Among the most valuable activities of the year was the Conference on International Relations, held under the auspices of the World Peace Foundation, with the co-operation of the Carnegie Endowment and the Church Peace Union, at Cornell University, Ithaca, New York, June 15–30, 1915. Dr. Nasmyth organized this Conference, and he and Norman Angell were its principal leaders. At this Conference 125 students, representatives of various college clubs and classes interested in the study of international relations, many of them selected by the professors of international law and political science for their special ability and promise for leadership, received an intensive training in the study and discussion of international problems for fifteen days. Among the delegates were several from theological schools. The League to Enforce Peace, which was formed at Philadelphia soon after the beginning of the Cornell Conference, received a large share of attention.

The following is a list of the principal speakers and their subjects:

Mr. Norman Angell	"Human Nature and War."
	"Non-Military Sanctions for International Law."
	"Methods of Effective Presentation."
Prof. George H. Blakeslee . .	"Pan American Co-operation and the Monroe Doctrine."
Prof. George Lincoln Burr .	"International Relations and the Teaching of History."
Dr. Frank Crane	"How to Convince the Man in the Street."
Prof. Sidney L. Gulick . . .	"America's Asiatic Problem."
Mr. Hamilton Holt	"A League to Enforce Peace."
Prof. Alfred Hayes	"The Reactions of International Policy upon Social Problems."
Prof. Manley O. Hudson . .	"Is the Sermon on the Mount Practical Politics?"
Mr. Roland B. Hugins . . .	"Can Military Force Gain National Economic Advantages?"
Mr. W. S. Kies	"America and the International Credit System."
Mr. Percy Mackaye	"The Need of Dynamic Symbols for Peace."
Mr. Hudson Maxim	"Defenseless America."
	"The Nationalization of the Manufacture of Armaments."
Prof. James G. McDonald .	"Fundamentals of International Law" (four lectures).

Dr. John Mez	"Is Equality of Commercial Opportunity a Necessary Condition of Peace?"
	"Can the Victors Recover their Costs?"
Dr. George W. Nasmyth . .	"Is this War a Struggle for Existence?"
	"Rival Theories of Society."
Prof. Samuel P. Orth	"Democracy and War."
Major George Haven Putnam	"The Question of Increasing the Armaments of the United States."
Prof. Nathaniel Schmidt . .	"Can the Golden Rule be Applied as a Practical Foreign Policy?"
Mr. Charles A. Sibley . . .	"War as a Struggle for Trade Opportunities."
Mr. William English Walling	"Socialists and the War."
Hon. Andrew D. White . . .	"The Hague Conference, Past and Future."

The members of the Conference, before adjournment, voted with enthusiasm to unite the clubs which they represented into an organization to be called the Federation of International Polity Clubs. Dr. Nasmyth was chosen President of the Federation, and an executive committee of eight members was named, consisting of delegates from the following universities: Chicago, Harvard, Illinois, Indiana, Cornell, Columbia, Wisconsin and Tulane.

The newly-formed Federation adopted the following resolutions, to show the spirit in which the members approach the general problem of world organization:

Whereas: Recent events have shown that the lives of American and other neutral citizens, and the rights of American and other neutral commerce on the high seas, cannot be made secure by America's taking part in a war in which both sides are, in some measure, straining and violating the law, and are supporting an interpretation of law which would leave those rights without due protection in the future.

We respectfully submit that the protection of American rights requires the development and reform of existing international law, so as to secure:

1. An international legislative body for the framing of such law.
2. An international court for its just interpretation.
3. An international arrangement for the due execution of the court's decision by such combination of economic or military measures as may be most effective.

And we further respectfully urge, as an action which can now be taken by the American government and as a step toward the achievement of these four results, that the other republics of this hemisphere be invited to confer with our own concerning their common willingness to ordain and support concerted efforts to secure due consideration for neutral rights and interests at the settlement following the present war.

The success of the Conference may be judged by the fact that during the summer and fall six similar conferences were organized

in different parts of the United States, following in the main the plan of the Cornell Conference and directed by delegates who had received their training and inspiration as members of the World Peace Foundation Conference.

The international student movement now includes not only international polity clubs, but debating clubs, civic clubs, students' forums and other student organizations. By an almost unanimous decision expressed in a recent referendum, the international polity clubs and allied organizations are not propagandist organizations, but exist solely for the scientific study and discussion of international problems. The individual members of the clubs are of course free to hold any opinions they choose and to work in any way they may desire, but the clubs as an organization have no creed or doctrine, and exist solely for the purpose of contributing, through their study and discussion, to the formation of an enlightened public opinion in regard to the problems of American foreign policy. They welcome to their membership militarists as well as pacifists, believing that it is necessary to have all opinions represented in order to obtain useful results in clearing up errors and misunderstandings and in finding points of common agreement.

Since the beginning of the present academic year the International Polity Clubs have been concentrating their energies upon the study and discussion of the program of the League to Enforce Peace and in a comparative study of the similar programs which have been put forward in other countries. In the various organizations connected with the movement there are at present between 1,000 and 2,000 students carrying on an intensive work of study, reading and discussion of the League of Peace idea. The importance of this work of enlightenment extends, of course, far beyond the students who are definitely organized for such study, because the clubs, while stimulating intensive study and discussion among those students who are most deeply interested in international problems, also act as a leaven for the entire student body, arranging lectures open to the entire university, distributing the literature of the League to Enforce Peace as part of their publicity, and as a basis for discussion after the lecture. Thus there is created a general interest in international subjects, increasing enrollments and the demands

for classes. As a part of the publicity campaign for Mr. Hamilton Holt's lecture on the League of Peace in Harvard University, for example, between 1,000 and 2,000 copies of President Lowell's article on the "League to Enforce Peace," reprinted from the *Atlantic Monthly*, were distributed among the students. It is planned to continue the work until practically every student in Harvard University and the other institutions reached by the Foundation is familiar with the fundamental idea of the League.

The clubs vary greatly in composition and method of organization in the different colleges and universities, depending upon the special conditions in each institution and the judgment of the faculty members in regard to the form of organization which would be most effective. In many of the universities of the middle west, the international polity club is somewhat of the nature of an honorary society. At Wisconsin, for example, the War and Peace Conference is made up of about thirty of the most promising students of the University, selected by the professors of International Law and Political Science, and personally invited to meet with these professors twice a month to discuss with them problems of international relations. At Indiana, the president of the University presided at the mass meeting of students at which the organization was formed, and continues to give the club his active support. At the University of Pennsylvania, the club was formed at the request of the professors in the department of Political Science, and with the approval of the Provost and the Faculty Committee on Organizations. In other universities, especially those which were formed at the beginning of the movement, the clubs sprang largely from individual initiative on the part of the students, as an expression of an awakened interest in international problems, and have been carried on by the efforts of students ever since. In every case the aim has been to use the international polity club as a means of reaching the entire student body, through lectures, through literature, through interesting the editors of the student publications, and through stimulating other student organizations to take up international subjects in their programs.

The work done among debating societies, literary clubs, and Y. M. C. A. classes, from which the demands for assistance and material have been greater than ever before, is capable of considerable

expansion. The civic clubs and good government movement, which is established in a large number of the colleges and universities of the middle west and the smaller colleges of New England, have been concentrating much of their energies during the past year upon international relations and have welcomed our assistance in furnishing speakers and literature.

The following student organizations are now associated with the federation of clubs:

Amherst College: Amherst Forum, Amherst, Mass.
Bates College: Politics Club, Lewiston, Me.
Colby College: Debating Club, Waterville, Me.
Columbia University: International Polity Club, New York City.
Cornell University: International Polity Club, Ithaca, N.Y.
Dartmouth College: International Polity Club, Hanover, N.H.
Earlham College: Earlham Polity Club, Richmond, Ind.
Georgia, University of: International Polity Club, Athens, Ga.
Harvard University: International Polity Club, Cambridge, Mass.
Illinois, University of: Alpha Sigma Phi Polity Club, Champaign, Ill.
Illinois, University of: Men's Polity Club, Champaign, Ill.
Illinois, University of: Women's Polity Group, Urbana, Ill.
Illinois, University of: Young Women's Polity Club, Champaign, Ill.
Indiana University: International Polity Club, Bloomington, Ind.
Iowa, State University of: Iowa Peace and War Society, Iowa City, Ia.
Kansas, University of: International Polity Club, Lawrence, Kan.
Louisiana State University: War and Peace Society, Baton Rouge, La.
Michigan, University of: International Polity Club, Ann Arbor, Mich.
Minnesota, University of: Peace and War Society, Minneapolis, Minn.
Minnesota College of Agriculture: Peace Club, University Farm, St. Paul, Minn.
Missouri, University of: International Polity Club, Columbia, Mo.
Nebraska, University of: World Polity Club, Lincoln, Neb.
Newcomb College: Peace Polity Club, New Orleans, La.
Pennsylvania, University of: International Polity Club, Philadelphia, Pa.
Princeton University: International Polity Club, Princeton, N.J.
South Carolina, University of: International Polity Club, Columbia, S.C.
Syracuse University: International Polity Club, Syracuse, N.Y.
Texas, University of: War and Peace Society, Austin, Tex.
Trinity College: Political Science Club, Hartford, Conn.
Tulane University of Louisiana: International Polity Club, New Orleans, La.
Vanderbilt University: International Polity Club, Nashville, Tenn.
Virginia, University of: International Polity Club, Charlottesville, Va.
Wesleyan University: International Polity Club, Middletown, Conn.
Williams College: Peace and War Study Group, Williamstown, Mass.
Wisconsin, University of: Peace and War Conference, Madison, Wis.
Yale University: International Polity Club, New Haven, Conn.

POSITIVE POLICIES.—In the spring of 1915, the sinking of the *Lusitania* and other similar events seemed to threaten an extension of the area of belligerency, and to challenge pacifists in this country for a formulation of policies. Under such challenge, the World Peace Foundation has not been silent. In May the Foundation proposed "the prompt convocation of a conference of neutral nations, as the most practicable and effective step toward the maintenance of neutral rights and the betterment of international relations." We suggested that such "a conference might be convoked by the United States or preferably by the Governing Board of the Pan American Union, already available as the nucleus" of the proposed conference. The pamphlet in which this proposal was discussed and defended, and which was widely distributed, contained the following resolution, suggested as a form of communication with our Department of State and with members of Congress:

> We, the undersigned, citizens of the state of , believing that the neutral nations should have the requisite organization for bringing their united counsel and influence to bear upon existing international relations, respectfully submit that the government of the United States should take immediate steps for assembling a conference of neutral states to consider and act upon their common interests in international affairs.

This pamphlet was widely circulated and commented on in many publications. It was reprinted in the *Advocate of Peace* for August, 1915. In the third quarterly issue of *Centro-América*, organ of the International Central American Office, the idea of a conference of neutrals inspired the leading article, and our pamphlet was quoted, as an authority, with approval.

The adoption of the program of a League to Enforce Peace, at Philadelphia, on June 17, was followed by a meeting of the Trustees of the Foundation, July 12, to consider what should be their official attitude toward the proposed League.

It was voted unanimously that this Foundation approved of the League's program, and the Directors and representatives of the Foundation were instructed to support, in the name of the Foundation, the principles and policy of the League. A few days later, the Trustees also expressed a general approval of the substance of the Minimum Program issued by the European international organization called the Central Organization for a Durable Peace. Our

Board of Directors is represented in the membership of the International Council of the Central Organization, and in its American branch.

These acts have aligned the Foundation fairly and squarely with the forces on both sides of the Atlantic that have begun to prepare for the world reorganization which ought to follow the present war, and for that purpose have posited the fundamental principle of an international league to insure peace with justice under law.

Concerning the question of "preparedness" which is agitating our nation, the Foundation has also given a reason for the faith that is in it in a series of nine leaflets, of which some 15,000 sets have been distributed; and also in a pamphlet devoted to the thesis that, while disarmament is at present impracticable, the demands of alarmists are irrational and a frenzied haste to arm is unnecessary.

PUBLICATIONS.—Distribution of literature has been both broadened and systematized during the year. Mailing lists have largely increased, both through requests and through office policy in placing our publications where they would exert a wide influence. On this latter account, we have undertaken to supply all American libraries, which are normal centers of inquiry for their localities; and every effort has been made to reach teachers of political science. Encouragement of the use of our publications in appropriate college classes has met with a large response. Total distribution has exceeded that of past years.

One of the valuable results of a postal card inquiry among our readers during the spring of 1915 was a shower of suggestions concerning the scope and character of our Pamphlet Series.

A suggestion, in which a large number of writers coincided, asked for a more extended publication of important official documents. That this request has been heeded the following list of our serial pamphlets for 1915 will clearly show:

DATE.	VOLUME V.	TITLE.
February	No. 1	America and the European War. By Norman Angell.
	No. 1, Part II.	Outline of Lessons on War and Peace. By Lucia Ames Mead.
April	No. 2	The Foundations of a League of Peace. By G. Lowes Dickinson.

		Appendices: I. A Congress of Neutrals Proposed in the Pan American Union. II. International Commission of Inquiry. III. German Socialist Programs.
June	No. 3, Part I.	A Conference of Neutral States. By C. H. Levermore. Official Documents concerning Neutral and Belligerent Rights. Separate pamphlets with individual titles as follows:
	No. 3, Part II.	Neutrality Proclaimed and Explained. Appendix: The Declaration of London and its Modifications.
August	No. 4, Part I.	War Zones, or Strategic Areas.
	No. 4, Part II.	War Zones. Interference by the Powers of the Quadruple Entente with American Trade with Neutrals.
	No. 4, Part III.	Foodstuffs Cargo of the *Wilhelmina* in the British Prize Court. German and Austrian Attitude toward American Trade in Munitions of War. The Dumba Letters. The Sinking of the *William P. Frye.*
October	No. 5, Part II.	Sinking of the *Lusitania* and Attacks upon Other Ships; the Cases of the *Falaba, Cushing, Gulflight, Nebraskan, Orduna,* and *Arabic.*
	No. 5, Part I.	A League to Enforce Peace. By A. Lawrence Lowell.
	No. 5, Part III.	Arbitration Engagements now Existing in Treaties, Treaty Provisions and National Constitutions. Compiled, with Notes, by Denys P. Myers.
December	No. 6, Part I.	Preparedness—for What? By Charles H. Levermore.
	No. 6, Part II.	Annual Report. 1915.

Leaflets issued by the Foundation since April 1, relating chiefly to the subject of military preparation, are as follows:

I. "Preparedness."
II. What does Righteousness Demand?
III. What Shall our Country do First?
IV. What are we to Prepare for?
V. The Higher Battles.
VI. The Minimum of Safety.
VII. Armies, Navies, and Police.
VIII. A Navy to Insure Peace.
IX. War Always the Worst Way Out.

To our list of books for sale we have added "Towards International Government," by John A. Hobson, the eminent publicist and member of the editorial staff of the *London Nation.* Many of these books, thanks to the generous co-operation of the Carnegie Endowment, have been placed in the hands of members of the international polity

clubs. The volume containing the official report of the proceedings of our Summer Conference on International Relations is now in the hands of the printer, and will appear early in 1916. It contains not only the addresses already referred to, but also the official report of many of the discussions that followed the addresses.

Early in the year the Commission on Christian Education, belonging to the Federal Council of the Churches of Christ in America, undertook to prepare a program of Sunday school lessons on international peace. The committee of the Commission, to whom this work was intrusted, was closely associated with our resident Directors, and held its sessions in our conference room.

The lessons were accompanied by a comprehensive bibliography, prepared by Mr. Myers, and were published in pamphlet form by the Federal Council.

Its value to clergymen preparing sermons caused it to be sent to more than 25,000 ministers. On its basis a volume of readings was prepared as an aid to Sunday school teachers, the material being gathered in our library from our books and files. Finally, the Sunday school lessons themselves have been adopted for classes numbering about 2,000,000 persons.

An index of the 20 Mohonk Arbitration Conference Reports from 1895 to 1914 was prepared in the rough several years ago in the spare moments of the office force. It was felt that these reports formed a unique peace library in themselves and that their wide distribution among colleges made it desirable that the peace material in them should be available to students, who are now so generally engaging in prize essay and oration contests. Publication of the index has now been arranged.

Our office has materially aided the National Economic League in conducting an interesting referendum on world peace. The opinions expressed by the members of the League were analyzed by Mr. Myers in a summary issued by the League, together with a ballot, calling for a final record of opinion. Mr. Myers has also undertaken the preparation of a bibliography of collections of treaties, a work which the authorities of the library of Harvard University will publish.

CHANGES.—Early in September, Mrs. Anna Sturges Duryea relinquished the direction of the department of women's clubs and societies,

and withdrew from our staff in order to enter upon a different professional career in New York City.

As a member of our staff, Mrs. Duryea has devoted herself for five years to the creation and education of a sane public opinion among women. In this labor she has displayed exceptional energy and ability, and she has embarked upon her new career with the grateful remembrance and good will of her former associates in the Foundation.

The encouraging increase of student interest in international relations, and especially the formation of a federation of student clubs at our conference in June, have greatly enlarged the executive labor in the offices of the Foundation.

The clubs have naturally and properly looked to this office for advice and direction. Mr. Fred B. Foulk has therefore been made an assistant upon our executive staff, and charged with the duties of an executive secretary of the student clubs. He began his labors with us on November 1. Mr. Foulk is a graduate of the University of Michigan and one of the leaders of the Cosmopolitan club movement. He has been for two years editor of *The Cosmopolitan Student*, the organ of that movement, and during the summer and fall of 1915 was a member of the editorial staff of the *Advocate of Peace*.

At the annual meeting of the Board of Directors, which was held October 26, 1915, these changes in our staff and the coincident questions concerning our future policy were thoroughly discussed. The result was the unanimous adoption of the following resolution:

Voted, That the Directors recommend that the departments of work among women's clubs and business organizations be discontinued for the present, and that our available resources for the year 1916 be concentrated upon our work among colleges, universities and normal schools and upon our publications, in accordance with the report that is already submitted to the Committee on Organization.

READING ROOM AND LIBRARY.—The Department of Publicity has, since the outset, been constantly receiving a considerable amount of periodical and casual publications of vital interest to peace workers and to students of international relations.

In connection with this material there has been gradually collected a highly specialized library of books representing the different phases of our work. Much thought has been given to plans for classifying

these valuable collections and making them readily accessible not only to the staff of the Foundation, but eventually to other students and inquirers.

Suitable cases placed in our Conference Room have enabled us to display there all the periodical publications received. This has given us a reading room in which we have on file all the principal peace publications in the world and the best periodicals that are essential for the study of existing international relations. The most important of these publications are as follows:

Advocate of Peace
Alliance Française, Bulletin of the
American Asiatic Association, Journal of the
American Journal of International Law, The
American Political Science Review, The
American-Scandinavian Review, The
American Socialist
Arbitrator, The
Army and Navy Journal
Bulletin of the Pan American Union
[1] Bund *Neues Vaterland*
Cartoons Magazine
Centro-América
Christliche Welt, Die
Commoner, The
Commonweal, The
Concord
Cosmopolitan Student, The
[1] Courrier de l'Ecole de la Paix
[1] Courrier Européen
Documents du Progrès
Droit international, Journal du
Droit international public, Revue Générale de
Eastern and Western Review
Eiche, Die
Far East
Fatherland, The
Freds-Bladet
Fredsfanan
Friede, Der
Friedens-Warte
Friend, The
Giovine Europa
Goodwill
Herald of Peace and International Arbitration, The
Herald, The
Hilfe, Die
Holland News
Japan Commercial Weekly
Japan Peace Movement, The
Japan Society, bulletins
Messenger of Peace, The
Monistische Jahrhundert, Das
Mouvement Pacificiste, Le
National Peace Council Monthly Circular
Navy, The
Near East, The
Nemzetközi élet
North American Student, The
Paix par le Droit, La
Pax
Race Development, The Journal of
Rationalist Peace Quarterly
Riforma Italiana, La
Seven Seas
Student World
Vita Internationale, La
Voix de l'Humanité, La
Völker-Friede
Vrede Door Recht
War and Peace
World Court
Zeitschrift für Völkerrecht

[1] Indicates uncertainty of publication, owing to the war.

STATEMENT OF RECEIPTS AND DISBURSEMENTS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1915

PRINCIPAL

Receipts

Cash on hand September 30, 1914	$13,197.91	
Received during year ending September 30, 1915, from Estate of Edwin Ginn, balance due under Mr. Ginn's contract with World Peace Foundation to pay a total of $200,000	81,500.00	$94,697.91

Disbursements

Invested in bonds	$65,521.00	
Additional payments for reconstruction of building, 40 and 42 Mt. Vernon street	28,598.24	94,119.24
Balance cash on hand September 30, 1915		$578.67

INCOME

Receipts

Cash on hand September 30, 1914			$4,336.58
From investments and interest		$2,936.12	
Estate of Edwin Ginn: balance due and unpaid September 30, 1914	$12,000.00		
Amount received during the year ending September 30, 1915	31,000.00	43,000.00	
Estate of Edwin Ginn, interest on principal, due September 30, 1914	$1,974.42		
Additional interest, year ending September 30, 1915	1,957.22	3,931.64	
Rents 40 and 42 Mt. Vernon street		5,792.26	
Book Publishing Account, sales for cash, and collections		1,023.09	
Book royalties		324.30	
Cash deposited		91.66	57,099.07
Total receipts			$61,435.65

DISBURSEMENTS

Salaries	$27,991.00	
Expenses 40 and 42 Mt. Vernon street	4,993.13	
Rent of premises occupied by World Peace Foundation, 40 Mt. Vernon street	2,000.00	
Anna B. Eckstein, cash credit paid	375.00	
Anna B. Eckstein, traveling expense account, 1914	375.00	
Cornell Conference on International Relations	945.00	
American School Peace League	2,500.00	
General traveling expenses	2,927.03	
Lectures	385.11	
Ginn & Company, balance of old account	1,872.50	
Publication and Publicity Account	5,047.82	
Book Publishing Account	445.48	
Book Plate Account	675.73	
Office expenses	940.03	
Postage, telegrams and expressage	1,262.02	
Bank charges	7.67	
Insurance	134.16	
Cash credits paid	50.00	52,926.68
Balance cash on hand September 30, 1915		$8,508.97

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